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सं. 47] नई दिल्ली, नवम्बर 16—नवम्बर 22, 2014, शनिवार/कार्तिक 25—अग्रहायण 1, 1936
No. 47] NEW DELHI, NOVEMBER 16—NOVEMBER 22, 2014, SATURDAY/KARTIKA 25—AGRAHAYANA 1, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 12 नवम्बर, 2014

का.आ. 2937.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 कर 28) की धारा 6 की उप-धारा (1) के खंड (ड) के उप-खंड (i) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा, श्री अरविन्द सुब्रमणियन, मुख्य आर्थिक सलाहकार, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से और अगले आदेशों तक, डॉ. रघुराम जी, राजन के स्थान पर भारतीय निर्यात-आयात बैंक के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 9/16/2012-आईएफ-1]

गोविन्द राम, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 12th November, 2014

S.O. 2937.—In pursuance of sub-clause (i) of clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), Central Government hereby nominates Shri Arvind Subramanian, Chief Economic Advisor, Ministry of Finance, New Delhi as Director on the Board of Directors of Export Import Bank of India vice Dr. Raghuram G. Rajan with immediate effect and till further orders.

[F.No. 9/16/2012-IF-I]

GOVIND RAM, Under Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा यूनिट)

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2938.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत केन्द्रीय विद्यालय संगठन (मुख्यालय), नई दिल्ली के निम्नलिखित 20 केन्द्रीय विद्यालयों को, ऐसे कार्यालयों के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:

1. केन्द्रीय विद्यालय, नं. 1, धनबाद, बिनोद नगर, धनबाद-826001 (झारखण्ड)
2. केन्द्रीय विद्यालय, झारसुगुडा, रेलवे कॉलोनी, झारसुगुडा-768201 (ओडिशा)
3. केन्द्रीय विद्यालय, जिला-गोडडा-814133 (झारखण्ड)
4. केन्द्रीय विद्यालय, सिंगारसी, ए.एफ.एस. 507, एस.यू.ए.एफ. 99 ए, पी.ओ. (झारखण्ड)
5. केन्द्रीय विद्यालय, हिनू (प्रथम पाली), डोरण्डा, रांची-834002 (झारखण्ड)
6. केन्द्रीय विद्यालय, जामताड़ा, बालिका उच्च विद्यालय परिसर, न्यू टाउन, जामताड़ा-815351 (झारखण्ड)
7. केन्द्रीय विद्यालय, कुत्रा, सेंटर प्राइमरी स्कूल, जिला सुंदरगढ़-770018 (ओडिशा)
8. केन्द्रीय विद्यालय, साहिबगंज, हबीबपुर, जिला साहिबगंज-816109 (झारखण्ड)
9. केन्द्रीय विद्यालय, साहिबगंज, सिमडेगा, आदिवासी बालिका छात्रावास, सामटोली, गोतरा, जिला-सिमडेगा-835235 (झारखण्ड)
10. केन्द्रीय विद्यालय, पो. बरकाकाना, जिला रामगढ़-829102 (झारखण्ड)
11. केन्द्रीय विद्यालय, पतरातू, डीजल कॉलोनी, जिला रामगढ़-829120 (झारखण्ड)
12. केन्द्रीय विद्यालय, मधुपुर, जिला देवघर-815353 (झारखण्ड)
13. केन्द्रीय विद्यालय, नं. 2, धनबाद, जगजीवन नगर थाना के पीछे, पोस्ट-जगजीवन नगर, धनबाद-826002 (झारखण्ड)

14. केन्द्रीय विद्यालय, गुमला, ट्रेनिंग स्कूल कैम्पस, करमटोली रोड, गुमला-835207 (झारखण्ड)
15. केन्द्रीय विद्यालय, जशपुर, डोरका चौरा, गम्हरिया, जशपुर-496331 (छत्तीसगढ़)
16. केन्द्रीय विद्यालय, नामकुम, रांची-834010 (झारखण्ड)
17. केन्द्रीय विद्यालय, हिनू, (द्वितीय पाली), डोरण्डा, रांची-834002 (झारखण्ड)
18. केन्द्रीय विद्यालय, गढवा, पिपरा कलां, गायत्री नगर, जिला-गढवा-822114 (झारखण्ड)
19. केन्द्रीय विद्यालय, जिला-लातेहार-829206 (झारखण्ड)
20. केन्द्रीय विद्यालय, सी.आर.पी.एफ., धुर्वा, रांची-834004 (झारखण्ड)

[सं. -11011-3/2014-रा.भा.ए.]

सुखबीर सिंह संधू, संयुक्त सचिव

**MINISTRY OF HUMAN RESOURCE
DEVELOPMENT**

(Department of Higher Education)

(O.L. Unit)

New Delhi, the 10th November, 2014

S.O. 2938.—In pursuance of sub. rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following 20 Kendriya Vidyalayas of Kendriya Vidyalaya Sangathan (HQ), New Delhi under the Ministry of Human Resource Development, (Department of School Education & Literacy) as offices, whose more than 80% members of the staff have acquired working knowledge of Hindi:

1. Kendriya Vidyalaya, No. 1, Dhanbad, Binod Nagar, Dhanbad-826001 (Jharkhand)
2. Kendriya Vidyalaya, Jharsuguda, Railway Colony, Jharsuguda-768201 (Odisha)
3. Kendriya Vidyalaya, Distt.-Godda-814133 (Jharkhand)
4. Kendriya Vidyalaya, Singharsi, AFS, 507, SAUF C/o 99 APO (Jharkhand)
5. Kendriya Vidyalaya, Hinoo (1st Shift) Doranda, Ranchi-834002 (Jharkhand)
6. Kendriya Vidyalaya, Jamtara, Girls High School Campus, New Town, Jamtara-815351 (Jharkhand)

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| 7. Kendriya Vidyalaya, Kutra, At Centre Primary School, Distt.-Sundargarh-770018 (Odisha) | 14. Kendriya Vidyalaya, Gumla, Training School Campus, Karam Toli Road, Gumla-835207 (Jharkhand) |
| 8. Kendriya Vidyalaya, Sahibganj, Habibpur, Distt. Sahibganj-816109 (Jharkhand) | 15. Kendriya Vidyalaya, Jashpur, Dorka Chora, Gamharia, Jashpur-496331 (Chhattisgarh) |
| 9. Kendriya Vidyalaya, Sahibganj, Simdegaa, At Adiwasi Balika Chhaatravas, Samtoli, Gotra, Distt. Simdega-8835235 (Jharkhand) | 16. Kendriya Vidyalaya, Namkum, Ranchi-834010 (Jharkhand) |
| 10. Kendriya Vidyalaya, Post-Barekakana, Distt-Ramgarh-829102 (Jharkhand) | 17. Kendriya Vidyalaya, Hinoo (2nd Shift), Doranda, Ranchi-834002 (Jharkhand) |
| 11. Kendriya Vidyalaya, Patratu, Diesel Colony, Distt. Ramgarh-829120 (Jharkhand) | 18. Kendriya Vidyalaya, Garhwa, Pipara Kalan, Gayatri Nagar, Distt. Garhwa-829206 (Jharkhand) |
| 12. Kendriya Vidyalaya, Madhupur, Distt.-Deoghar-815353 (Jharkhand) | 19. Kendriya Vidyalaya, Distt.-Latehar-829206 (Jharkhand) |
| 13. Kendriya Vidyalaya, No. 2, Dhanbad, Behind Jagjivan Nagar Police Station, Post-Jagjivan Nagar, Distt-Dhanbad-826002 (Jharkhand) | 20. Kendriya Vidyalaya, CRPF, Dhurva, Distt. Ranchi-834004 (Jharkhand) |
- [No. 11011-3/2014-O.L.U.]
SUKHBIR SINGH SANDHU, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2939.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में वर्णित भूमि में कोयला अभिप्राप्त होने की संभावना है;

और भारतीय सर्वेक्षण टोपोशीट संख्या 64 ई/7 (आर.एफ. 1:50000) का जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट है, का निरीक्षण महाप्रबंधक (गवेषण प्रभाग), सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीट्यूट लिमिटेड, गोंदवाना प्लेस, कांके रोड, रांची के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता — 700001 के कार्यालय में या जिला कलक्टर, जिला शहडोल, मध्य प्रदेश के कार्यालय में किया जा सकता है।

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति —

- (i) उक्त अधिसूचना की धारा 4 की उप-धारा (3) के अधीन की गई किसी कार्रवाई से हुई या सम्भवतः होने वाली किसी क्षति के लिये उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन प्रतिकर का दावा कर सकेगा; या
- (ii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन पूर्वोक्षण अनुज्ञप्तियों के प्रभावहीन होने की बाबत या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन खनन पट्टे प्रभावहीन होने के लिये प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों की बाबत उपगत व्यय को उपदर्शित करने के लिये पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को परिदत्त कर सकेगा।

राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन की अवधि के भीतर महाप्रबंधक (गवेषण प्रभाग), सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीट्यूट लिमिटेड, गोंदवाना प्लेस, कांके रोड, रांची-834031 (झारखंड) के कार्यालय को भेजेंगे।

अनुसूची

बिचारपुर पूर्व ब्लॉक, सोहागपुर कोयला क्षेत्र

जिला—शहडोल, मध्य प्रदेश

[टोपोशीट संख्या 64 ई/7 (आर.एफ. 1:50000)]

क्र. सं.	मौजा/ग्राम	तहसील	पटवारी हल्का संख्या	बन्दोबस्त संख्या	जिला	क्षेत्र एकड़ में (लगभग)	क्षेत्र हेक्टर में (लगभग)	टिप्पणियां
1	2	3	4	5	6	7	8	9
1.	बासिन	सिंहपुर	88	707	शहडोल	642.09	259.84	भाग
2.	फतेहपुर	सिंहपुर	92	624	शहडोल	439.83	177.99	भाग
3.	गौरतरा	सोहागपुर	71	234	शहडोल	67.46	27.30	भाग
4.	नरसरहा	सोहागपुर	78	510	शहडोल	52.78	21.36	भाग
5.	बिचारपुर	सोहागपुर	79	728	शहडोल	291.39	117.92	भाग
6.	पचगांव	सिंहपुर	88	551	शहडोल	23.67	9.58	भाग
7.	दुधी	सिंहपुर	89	445	शहडोल	26.14	10.58	भाग

कुल क्षेत्र : 1543.36 एकड़(लगभग) या 624.57 हेक्टर (लगभग)**सीमा वर्णन:**

- क—ख यह रेखा, बिचारपुर ग्राम के बिन्दु 'क' से आरंभ होती है और फतेहपुर और नरसरहा ग्राम से होकर गुजरती हुई गौरतरा ग्राम के बिन्दु 'ख' पर मिलती है। रेखा 'क'—'ख' इस ब्लॉक की उत्तरी सीमा का भाग है।
- ख—ग यह रेखा ग्राम गौरतरा के बिन्दु 'ख' से आरंभ होती है और फतेहपुर ग्राम से होकर गुजरती हुई दुधी ग्राम के बिन्दु 'ग' पर मिलती है। रेखा 'ख'—'ग' इस ब्लॉक के पूर्वी सीमा का भाग है।
- ग—घ यह रेखा ग्राम दुधी ग्राम के बिन्दु 'ग' से आरंभ होती है और ग्राम बासिन से होकर गुजरती हुई पचगांव ग्राम के बिन्दु 'घ' पर मिलती है। रेखा 'ग'—'घ' इस ब्लॉक के दक्षिणी सीमा का भाग है।
- घ—क यह रेखा ग्राम पचगांव के बिन्दु 'घ' से आरंभ होती है और बासिन ग्राम से होकर गुजरती हुई बिचारपुर ग्राम के बिन्दु 'क' पर जाकर मिलती है। रेखा 'घ'—'क' इस ब्लॉक की पश्चिमी सीमा का भाग है।

[फा. सं. 43015/12/2013—पीआरआईडब्ल्यू—1]

दोमिनिक डुंगडुंग, अवर सचिव

MINISTRY OF COALNew Delhi, the 17th November, 2014

S.O. 2939.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the Survey of India Toposheet number 64E/7 (R.F. 1:50000) containing the details of the areas of land described in the said Schedule may be inspected at the office of the General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi or at the office of the Coal Controller, 1, Council House Street, Kolkata - 700001 or at the Office of the District Collector, District of Shahdol, Madhya Pradesh;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule;

Any person interested in the land described in the above mentioned Schedule may—

- (i) claim compensation under sub-section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (ii) claim compensation under sub-section (1) of section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Office of the General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi-834031 (Jharkhand) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Bicharpur East Block, Sohagpur Coalfield

District – Shahdol, Madhya Pradesh

[Toposheet number 64E/7 (R.F. 1:50000)]

Sl. No.	Mouja/ Village	Tahsil	Patwari halka number	Bandobast number	District	Area in acres (approximately)	Area in hectares (approximately)	Remarks
1.	Basin	Singhpur	88	707	Shahdol	642.09	259.84	Part
2.	Fatehpur	Singhpur	92	624	Shahdol	439.83	177.99	Part
3.	Gourtara	Sohagpur	71	234	Shahdol	67.46	27.30	Part
4.	Narsarha	Sohagpur	78	510	Shahdol	52.78	21.36	Part
5.	Bicharpur	Sohagpur	79	728	Shahdol	291.39	117.92	Part
6.	Pachgaon	Singhpur	88	551	Shahdol	23.67	9.58	Part
7.	Dudhi	Singhpur	89	445	Shahdol	26.14	10.58	Part
Total area : 1543.36 acres (approximately)							624.57 hectares (approximately)	

Boundary description:

- A-B The line starts from point 'A' in Bicharpur village and meets at point 'B' in Gourtara village passing through the Fatehpur and Narsarha villages. 'A-B' line forms the northern boundary of the block.
- B-C The line starts from point 'B' in Gourtara village and meets at point 'C' in Dudhi village passing through the Fatehpur village. 'B-C' line forms the eastern boundary of the block.
- C-D The line starts from point 'C' in Dudhi village and meets at point 'D' in Pachgaon village passing through the Basin village. 'C-D' line forms the southern boundary of the block.
- D-A The line starts from point 'D' in Pachgaon village and meets at point 'A' in Bicharpur village passing through the Basin village. 'D-E' line forms the western boundary of the block.

[F. No. 43015/ 12/2013-PRIW-I]

DOMINIC DUNG DUNG, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2940.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तेलंगाना राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“तेलंगाना राज्य के नलगोंडा जिले के त्रिपुरारम मंडल में आने वाले राजस्व गाँव की सीमा के अंतर्गत क्षेत्र-पेद्दादेवुलपल्ली और वेमुलापल्ली मंडल में आने वाले राजस्व गाँव की सीमा के अंतर्गत क्षेत्र-गाजुलापुरम”।

[सं. एस-38013/67/2014-एस.एस. 1]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th November, 2014

S.O. 2940.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Talangana namely :—

"The Revenue Village of Peddadevulapally of Tripuraram Mandal and Gajulapuram of Vemulapally Mandal in Nalgonda District of Telangana State."

[No. S-38013/67/2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2941.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध जम्मू एवं काश्मीर राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्रं. सं.	राजस्व ग्राम का नाम/क्षेत्र*	हदवस्त संख्या/होबली*	तहसील/तालुक*	जिला
1	2	3	4	5
1.	जम्मू विकास प्राधिकरण के अंतर्गत आने वाले वे सभी क्षेत्र, जो उन क्षेत्रों के समीपवर्ती हैं जहाँ पहले से ही योजना लागू है, और जहाँ समय-समय पर प्राधिकरण के क्षेत्र का विस्तार होगा।			
2.	गाँव गाडी गढ, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
3.	गाँव गुरहा ब्राह्मणा, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
4.	गाँव दोमाना, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
5.	गाँव नागबनी, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
6.	गाँव पटोली ब्राह्मणा, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
7.	गाँव नरवाल बाला, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
8.	गाँव थंगर, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
9.	गाँव रखराजपुरा, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा
10.	गाँव सरोर, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा

1	2	3	4	5
11.	गाँव राया मोड़, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा
12.	गाँव मजीन, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
13.	गाँव बबलियाना, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
14.	गाँव बरनोई, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
15.	नगर समिति/निगम, कटुआ के अंतर्गत आने वाले सभी क्षेत्र।			
16.	संपूर्ण राजस्व गाँव चक राजू, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
17.	संपूर्ण राजस्व गाँव चक राम सिंह, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
18.	संपूर्ण राजस्व गाँव राम सिंह जगतपुर, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
19.	संपूर्ण राजस्व गाँव चक खूनी, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
20.	संपूर्ण SICOP औद्योगिक कम्प्लेक्स, कटुआ जिला कटुआ	संपूर्ण राजस्व गाँव क्षेत्र	कटुआ	कटुआ
21.	IID केन्द्र कटुआ, जिला कटुआ	संपूर्ण राजस्व गाँव/केन्द्र	कटुआ	कटुआ

[सं. एस-38013/68/2014-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 17th November, 2014

S.O. 2941.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Jammu and Kashmir namely :—

Sl. No.	Name of the village Area*	Had Bast No./Hobli*	Tehsil/Taluk*	District
1	2	3	4	5
1.	All the area under jurisdiction of Jammu Development Authority (JDA), which are contiguous to the already implemented zones and extended from time to time.			
2.	Village Gadi Gardh Distt. Jammu	Entire Revenue Village	Jammu	Jammu
3.	Village Guraha Brahmana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
4.	Village Domana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
5.	Village Nagbani Distt. Jammu	Entire Revenue Village	Jammu	Jammu
6.	Village Patoli Brahmana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
7.	Village Narwal Bala Distt. Jammu	Entire Revenue Village	Jammu	Jammu
8.	Village Thangar Distt. Jammu	Entire Revenue Village	Jammu	Jammu
9.	Village Rakhrajpora Distt. Samba	Entire Revenue Village	Samba	Samba
10.	Village Sarore Distt. Samba	Entire Revenue Village	Samba	Samba
11.	Village Raya Morh Distt. Samba	Entire Revenue Village	Samba	Samba
12.	Village Majeen Distt. Jammu	Entire Revenue Village	Jammu	Jammu
13.	Village Babliana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
14.	Village Barnai Distt. Jammu	Entire Revenue Village	Jammu	Jammu

1	2	3	4	5
15.All the area falling within limits of Municipal Committee/Corporation Kathua :				
16.Entire Revenue Village Chak Raju, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
17.Entire Revenue Village Chak Ram Singh, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
18.Entire Revenue Village Chak Ram Singh, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
19.Entire Revenue Village Chak Khuni, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
20.Entire SICOP Industrial Complex Kathua, Distt. Kathua		Entire Revenue Village/ Complex	Kathua	Kathua
21.IID Centre Kathua, Distt. Kathua		Entire Revenue Village/ Centre	Kathua	Kathua

[No. S-38013/68/2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2942.—जबकि मैसर्स कोका-कोला इंडिया इनक, (कोड संख्या एचआर/जीजीएन/10374 के अंतर्गत गुडगांव क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदस्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्वधीन उक्त प्रतिष्ठान को 19-10-2007 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/105/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध**कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें**

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों

के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय

अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं।

पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित)

के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने की स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का

भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादि के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2942.—Whereas M/s. Coca-Cola India Inc. [under Code No. HR/GGN/10374 in Regional Office, Gurgaon] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions

of the said Scheme with effect from 19-10-2007 until further notification.

[No. S-35015/105/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government),

with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central

Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2943.—जबकि मैसर्स हिन्दुस्तान चेरिटी ट्रस्ट, (कोड संख्या डब्ल्यूबी/42498 के अंतर्गत उप-क्षेत्रीय कार्यालय, पार्क स्ट्रीट में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन उक्त प्रतिष्ठान

को 01-01-2008 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/83/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना

जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्तहीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादि के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2943.—Whereas M/s. Hindustan Charity Trust [under Code No. WB/42498 in Sub-Regional Office, Park Street] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-01-2008 until further notification.

[No. S-35015/83/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be

given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and.
 - (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.
2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.
 3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.
 4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.
 5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
 6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
 7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.
 8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government

from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other

institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2944.—जबकि मैसर्स एक्सिस बैंक लिमिटेड (कोड संख्या एमएच/45239 के अंतर्गत बांद्रा क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार, उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, उक्त प्रतिष्ठान को 01-09-2013 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/94/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक

न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 थ के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और

सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी

चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के नाम पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन

पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य

निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2944.—Whereas M/s. Axis Bank Limited [under Code No. MH/45239 in Regional Office, Bandra] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-09-2013 until further notification.

[No. S-35015/94/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

(i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and

- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.
2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.
3. All employees' as defined in section 2(f) of the Act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.
4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.
5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.
8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.
9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.
10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.
11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.
12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.
13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.
14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.
15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.
16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.
17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.
18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall

inform the Regional Provident Fund Commissioner concerned about the same.

- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the

event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

- 24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.
- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer

of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2945.—जबकि मैसर्स टाटा हाउसिंग डेवलपमेंट कंपनी लिमिटेड (कोड संख्या एमएच/35195 के अंतर्गत बांद्रा क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्वधीन उक्त प्रतिष्ठान को 01-01-1991 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/110/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

(i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और

(ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार

द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने की स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्यवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2945.—Whereas M/s. Tata Housing Development Company Limited [under Code No. MH/35195 in Regional Office, Bandra] (hereinafter referred to as the establishment) has applied for exemption under

clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-01-1991 until further notification.

[No. S-35015/110/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES' PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the

Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time

frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the

Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this

office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2946.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार

निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 54/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42025/03/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 54/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat sanchar Nigam Limited and their workman, which was received by the Central Government on 05/11/2014.

[No.L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 8th day of October, 2014

INDUSTRIAL DISPUTE L.C.No.54/2006

Between:

Sri K.V.V. Prasad,
S/o Ramaiah,
C/o Pala Venkat Rao,
Gaddalagunta Palem,
Ongole,
Prakasam District.

...Petitioner

AND

1. The Chief General Manager
(Telecom), B.S.N.L.,
A.P. Circle,
Door Sanchar Bhawan,
Nampally Station Road,
Hyderabad.

2. The General Manager
(Telecom), B.S.N.L.,
Ongole,
Prakasam district.

...Respondents

Appearances:

For the Petitioner : M/s. V. Govinda Rajulu & A.V.
Rama Rao, Advocates

For the Respondent : Sri MC. Jacob, Advocate

AWARD

This petition filed invoking Sec.2 A (2) of the I.D. Act, 1947 by Sri K.V.V. Prasad, the workman seeking for declaring the action of the Respondents in disengaging the Petitioner as illegal, void, arbitrary and contrary to the provisions of Industrial Disputes Act, 1947 and the Indian Constitution and consequently direct the Respondents to reengage the Petitioner and regularize his services with all consequential benefits.

2. The averments made in the petition in brief are as follows:

Petitioner was appointed as casual mazdoor in the Respondent organization and worked without any complaint till September, 1999 and further upto 31.12.2000 on ACG-17, on voucher payment under SDOT, Ongole as and when the work exists. From 1.6.1984 to 31.8.1992 he worked for 1818 days under the Assistant Engineer, Railway Electrification (P&T) Madras; from 1.8.1993 to 31.1.1994 he worked for 152 days; from 31.3.1996 to 31.12.1996 worked for 282 days; from 31.1.1997 to 31.12.1997 for 231 days; from 1.1.1998 to 31.8.1998 for 225 days – he worked under SDOT, Ongole and from 1.9.1998 to 30.9.1999 he worked under SDE (F-10B) New Telephone, Ongole for 273 days. Thus, the Petitioner worked for 2981 days in total in the Respondent organization as casual mazdoor. Thereafter he was engaged on ACG -17 basis till 31.12.2000. Since 1.10.2001 he was not reengaged and he was not regularized as in the case of other casual mazdoors who were regularized though they are juniors to the Petitioner in all aspects. Since the year 2001 the officials of the 2nd Respondent office informing the Petitioners that they will reengage him whenever there is work and subsequently regularization shall be made. But for the reasons not known to the Petitioner he was never reengage till date in any kind of work. He worked for more than 240 days in the year 1996 and 1998-99. He did not stop away from work at any point of time on his volition. Disengagement of the Petitioner is illegal, dishonest and enforceable. Respondent reengaged number of his juniors as mazdoors and they were regularized by granting temporary status in Group-D posts. Petitioner possesses the requisite qualification for reengagement and conferment of temporary status and for regularization of his service. Despite making representations to the Respondents his case was not considered. The last representation is made on 19.5.2005. The action of the management is in violation of Articles 14 & 16 of the Indian Constitution and violation of Sections 25(F), 25(H) and 25(G) of Industrial Disputes Act, 1947. Since the Petitioner has been working since the year 1984 and disengaged from 1.1.2001, the case of the Petitioner for regularization is very much prior to the year 1998, thus,

the imposition of ban in recruitment in Bharat Sanchar Nigam Ltd., is not applicable to the case of the Petitioner. Hence, the petition.

2. Respondents filed a counter with the averments in brief as follows:

Petitioner never worked under SDOT, Ongole. The working days certificate submitted by the Petitioner in the Railway Electrification Project was found bogus and as such he was given one month notice by proceedings dated 7.12.1993 and his engagement was terminated w.e.f. 1.4.1994 by proceedings dated 28.3.1994. Since his services were terminated for producing bogus certificates after giving 30 days of notice of termination, the entire contentions made by the Petitioner are liable to be rejected. The question of seniority etc claimed by the Petitioner does not arise. Petitioner's contention that authorities told him that he will be reengaged subsequently etc are brought in only for the purpose of this proceedings and is liable to be rejected. His contention that he worked till September, 1999 and worked upto 31.12.2001 on ACG-17 is specifically denied. The list of casual mazdoors engaged by the Respondents during the said period does not bear Petitioner's name. The contentions raised basing on the working days is also liable to be rejected. The Petitioner's contentions regarding the period of work is denied and the certificate produced by the Petitioner in this regard was found bogus and he was disengaged by the authorities on 1.1.1994. since he was never engaged, question of regularization on completion of 240 days etc., will not arise as per rules. No one by name the Petitioner worked with the Department during the period upto 31.12.2000. Contentions of the Petitioner that the Respondent authorities violated proceedings of Industrial Disputes Act, 1947 and Constitution of India is untenable and liable to be rejected. Petitioner never challenged the proceedings issued as early as 17.12.1993 and 28.3.1994 wherein he was directed to produce the original documents for verification of work days before 30.11.1993 and he could not produce the certificates. The present proceedings attract delay, latches on the part of the Petitioner. Petitioner is not entitled for any of the reliefs sought for and the petition is liable to be dismissed with costs.

3. To substantiate the contentions of the Petitioner he examined himself as WW1 and marked Ex.W1 to W7. On behalf of the Respondent management, chief examination affidavit of MW1 was filed. But MW1 was not cross examined for the Petitioner though the said witness was present again and again before the court and ample opportunity was given to the Petitioner to cross examine him. Through MW1, Ex.M1 to Ex.M3 marked.

4. Heard the arguments.

5. The points that arise for determination are:-

- I. Whether the action of the Respondent management in disengaging the Petitioner is illegal, void, arbitrary and contrary to the provisions of Industrial Disputes Act, 1947 and Indian Constitution and if so on what grounds?
- II. Whether the Petitioner is entitled for the reliefs sought for?

6. Point No.I:

It is the contention of the Petitioner that he worked as casual mazdoor with the Respondent organization for about 2981 days, but his services were not regularized and temporary status in Group-D category was never confirmed on him though he was entitled for the same and on the other hand he was disengaged by the Respondent organization since 1.1.2001, which is neither legal nor justified. He is relying upon his own evidence as WW1 and Ex.W1 to W7 in this regard.

7. Ex.W1 is the Photostat copy of representation dated 19.5.2002 said to have been given by the Petitioner to the Respondent organization. This documents does not bear signature of the Petitioner or any other person. It does not bear any acknowledgement of the Respondent authorities to show that this representation was actually submitted to the Respondent organization by the Petitioner. Ex.W2 is said to have been a certificate issued by Asst. Engineer, Railway Electrification, which is a copy of the document but not original. The signatory of this document is not examined to prove the same. Same is the case with Ex.W3 to W7, the copies of mazdoor days certificates. The person who issued these documents is not examined before the court by the Petitioner. This lapse assumes importance in this case since it is the contention of the Respondent that Petitioner's services were terminated by the Respondent since it was found that the service certificates produced by him were not genuine documents and when he was asked to produce original service certificates in the year 1994, he failed to produce the same his services were terminated by virtue of order dated 28.3.1994 after giving due notice to him. The fact remains that even in the present petition proceedings, Petitioner never produced any original certificates.

8. To substantiate the contentions of the Respondent that the services of the Petitioner were terminated by virtue of orders dated 28.3.1994, Respondent produced the attested copies of proceedings dated 28.3.1994 and also 17.12.1993. They also produced attested copy of mazdoor list from 1993 to 1998 to show that Petitioner never worked as mazdoor with the said organization during this period. The evidence of MW1 remains unchallenged, as the Petitioner never chosen to cross examine MW1 inspite of giving ample opportunity to

him. MW1 categorically stated in his deposition that the working days certificate submitted by the Petitioner in the Railway Electrification Project was found to be bogus and as such he was given one month notice vide proceedings dated 17.12.1993 and his engagement was terminated w.e.f. 1.4.1994 by proceedings dated 28.3.1994, for submission of bogus certificates. He categorically contended that the contention of the Petitioner that he worked with Respondent organization upto 31.12.2001 is totally incorrect and that the mazdoor list maintained by the Respondent organization clearly show that Petitioner never worked with the said organization as being claimed by him.

9. In view of the above discussion, evidence on record, it is very much clear that the contentions put forth by the Petitioner are far from truth and that his services were disengaged by the Respondent organization by virtue of proceedings dated 28.3.1994 for the reason that he produced bogus service certificates, and that there is no truth in the contentions of the Petitioner that he was disengaged by the Respondent corporation from 1.1.2001.

This point is answered accordingly.

10. Point No. II:

In view of the finding given in Point No.I, Petitioner is not entitled for any of the reliefs sought for.

This point is answered accordingly.

Result:

In the result, petition is dismissed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri K.V.V. Prasad	MW1: Sri I. Srinivasa Rao
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Documents marked for the Petitioner

- Ex.W1: Photostat copy of representation by WW1 to Respondent dt.19.5.2005
- Ex.W2: Photostat copy of service certificate for the period from 1.6.1984 to 31.1.1992
- Ex.W3: Photostat copy of mazdoor days certificate for the period from 1.8.1993 to 31.1.1994
- Ex.W4: Photostat copy of mazdoor days certificate for the period from 21.3.1996 to 31.12.1996
- Ex.W5: Photostat copy of mazdoor days certificate for the period from 31.1.1997 to 31.12.1997
- Ex.W6: Photostat copy of mazdoor days certificate for the period from 1.1.1998 to 31.8.1998

Ex.W7: Photostat copy of mazdoor days certificate for the period from 1.9.1998 to 31.5.1999

Documents marked for the Respondent

- Ex.M1: Photostat copy of mazdoor list from 1993 to 1998
- Ex.M2: Photostat copy of proceedings dated 17.12.1993
- Ex.M3: Photostat copy of proceedings dated 28.3.1994
- नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2947.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान परमाणु विद्युत घर यूनिट 1-6 के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 66/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/05/2006-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2947.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 66/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Parmanu Vidyut Ghar Unit 1 to 6 and their workmen, which was received by the Central Government on 05/11/2014.

[No.L-42012/05/2006-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D.66/2006

Reference No.L-42012/5/2006-IR(DU)
dated: 28.9.2006

The Gen. Secretary
Rajasthan Anushakti Pariyojna
Karamchari Sangh, (INTUC)
Pratap Circle, Rawatbhata Via Kota
Rawatbhata (Kota)-323307.

V/s

The Station Director
Rajasthan Parmanu Vidyut Ghar
Unit 1 to 6, Rawatbhata (Kota).

Present:

For the Applicant Union : None.

For the Non-applicant : Sh. Dharmendra Jain, Adv.

AWARD

30.9.2014

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the demand of the Rajasthan Anushakti Pariyojna Karamchari Sangh for grant of Promotion to Shri Deepak Anjana as skilled ‘D’ w.e.f. 1.11.2001 is legal & justified? If yes, to what relief the workman concerned is entitled to and from which date?”

2. Pursuant to the reference order dated 28.9.2006 a case was registered as CGIT case no,66/2006. Registered notices were sent to both the parties on 21.11.2006 fixing 20.12.2006 for filing of claim. The court became vacant on 4.7.2006 due to retirement of the then Presiding Officer Sh. R.C.Sharma. Regional Labour Commissioner Sh. M.C.Sharma was in-charge of the court & the case was registered under his seal & signature. Notices sent vide order dated 16.11.2006 were treated not served because of non receipt of the acknowledgement back to the court.

3. The next presiding officer took charge on 3.9.2009 & judicial working started taking place in the file for advancement of the case. As per order dated 27.11.2009 notices were sent to both the parties fixing 6.1.2010 for filing statement of claim. Acknowledgement concerned with applicant as well as opposite party is available on record which indicates that notices have been served upon the parties. On 21.5.2010 learned counsel for opposite party appeared & filed his vakalatnama on behalf of Station Director. Vakalatnama has been filed by learned counsel for the applicant on 23.12.2010 & opportunity has been given for filing statement of claim by 3.3.2011. Prior to 3.3.2011 on 28.10.2010 opportunity was given to applicant to file statement of claim & authority letter by 23.12.2010 & further this opportunity of filing statement of claim was extended till 3.3.2011.

4. Orders sheet dated 3.3.2011 indicates that time was taken by applicant to get the statement of claim signed so that the same may be filed by next date hence, till 11.4.2011 opportunity was given to file statement of claim. On 11.4.2011 also statement of claim was not filed & it was alleged that after securing the signature statement of claim will be filed hence, 27.6.2011 date fixed for filing statement of claim. On 27.6.2011 claim was not filed. After 27.6.2011 eighteen dates have been given but till now statement of

claim has not been filed. On 1.4.2014 representative of the union Sh. P.B. Sharma (Retired) appeared & moved adjournment for time to file statement of claim which was granted with last opportunity & 1.5.2014 was fixed for filing statement of claim yet claim was not filed. On 1.5.2014 none appeared from both sides & 3.6.2014 was fixed for further order. On 3.6.2014 Presiding Officer was on leave, applicant was absent & opposite party was present. Next date 7.7.2014 was fixed on 3.6.2014. From 7.7.2014 till 15.9.2014 learned counsels were on strike hence no adverse order was passed for not filing statement of claim. On 25.8.2014 date was fixed for filing statement of claim by 15.9.2014 but after the end of the strike by the learned counsels also statement of claim has not been filed till date fixed on 29.9.2014.

5. Looking into above facts & circumstances & the lack of the interest in applicant to continue proceeding of the case & non-appearance, the case was reserved for award.

6. It is evident from the entire proceeding taken up by the tribunal to adjudicate the reference that the applicant is not interested in bringing the claim for adjudication before the tribunal. Long interval between the date of service of notice & date of reservation of award has failed to peruse the applicant to file the claim although at one occasion on 3.3.2011. It has been alleged that only signature of applicant is required before filing the statement of claim. It is pertinent to note that applicant has been served in person & acknowledgement is available on record. Beside this it is also important to note that the Hon'ble Ministry vide reference order dated 28.9.2006 has mandated the applicant to file the case before the tribunal within 15 days from the date of receipt of the reference forwarding the copy of such statement of claim to opposite parties involved in the dispute. Failure on the part of applicant to comply of the order of the Ministry & direction of the court to file statement of claim is indicative of the fact that applicant is not having any interest to pursue the case further. Under above circumstances, no material could be brought on record for adjudication of the reference order under consideration on merits, therefore, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2948.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत हैवी इलेक्ट्रिकल्स लिमिटेड, रानीपेट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 64/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/55/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2948.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 64/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Heavy Electricals Ltd., Ranipet and their workmen, which was received by the Central Government on 05/11/2014

[No.L-42011/55/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT CHENNAI

Tuesday, the 21st October, 2014

Present:

K. P. PRASANNA KUMARI, Presiding Officer

INDUSTRIAL DISPUTE No. 64/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Bharat Heavy Electricals Ltd. and their workman)

BETWEEN :

The General Secretary

Anaithu Oppandha

Thozhilalar Sangam

BAP/BHEL/Ranipet

Chennai-632406

1st Party/Petitioner

AND

The Senior Manager/HR-IR

Bharat Heavy Electricals Ltd.

Boiler Auxiliaries Plant,

Indira Gandhi

Industrial Complex

Ranipet

Chennai-632406

2nd Party/Respondent

Appearance:

For the 1st Party/ : Sri S. Parthasarathi, Advocate
Petitioner

For the 2nd Party/ : Sri F.B. Benjamin George,
Management Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/55/2014-IR (DU) dated 05.08.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of BHEL, Ranipet in not considering the charter of demands of the representative of the Petitioner Union is justified or not? If not, to what relief the employees are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 64/2014 and issued notices to both sides. Both sides entered appearance through their counsel.

3. Though Vakalat was filed on behalf of the petitioner, the petitioner has failed to file Claim Statement in spite of repeating postings. The petitioner as well as the counsel were continuously absent also. The petitioner seems to be not interested in pursuing the case. No material of any kind has been tendered to justify an award. So the reference is answered against the petitioner.

4. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2949.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राष्ट्रीय वस्त्र निगम लिमिटेड और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 69/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/18/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2949.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 69/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Textiles Corporation Ltd. and Others and their workman, which was received by the Central Government on 05/11/2014.

[No. L-42011/18/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Wednesday, the 15th October, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 69/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of National Textiles Corporation Ltd., Coimbatore and Another and their workmen)

Between :

- | | |
|---|---|
| 1. The Secretary
Anna Panchalai Thozhilalar Sangam
(ATP)
M/s. Pioneer Spinners,
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/1 st Petitioner
Union |
| 2. The Secretary
Dr. Ambedkar Thozhilalar Sangam
M/s. Pioneer Spinners,
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/2 nd Petitioner
Union |
| 3. The Secretary
Mill Thozhilalar Sangam (AITUC)
M/s. Pioneer Spinners,
Kamudhakudi,
Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/3 rd Petitioner
Union |

AND

- | | |
|---|--|
| 1. The General Manager
National Textiles Corporation Ltd.
SRO, NTC House, PO Box No. 2409
25-B, Somasundaram Mills Road
Coimbatore-641009 | : 2nd Party/1 st Respondent |
| 2. The General Manager
M/s. Pioneer Spinners
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram-623719 | : 2nd Party/2 nd Respondent |

Appearances:

- | | |
|---|--|
| For the 1st Party/
Petitioner Unions | : M/s. Ramapriya
Gopalakrishnan, Advocate |
| For the 2nd Party/
Management | : M/s. T. S. Gopalan & Co.,
Advocates |

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/18/2013-IR(DU) dated 24.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the NTC Management Southern Region/Coimbatore and M/s. Pioneer Spinners Mill, Kamudakudi in respect of not allowing the Petitioner Unions to raise Industrial Dispute for common/general issues which fall under Industrial Disputes Act, 1947 is justified or not? To what relief the unions are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 69/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

- | | |
|-------------------------------------|--------|
| For the 1st Party/Petitioner Unions | : None |
| For the 2nd Party/Management | : None |

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राष्ट्रीय वस्त्र निगम लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 70/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/19/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2950.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Textiles Corporation Ltd. and their workman, which was received by the Central Government on 05/11/2014.

[No. L-42011/19/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 15th October, 2014

Present :

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 70/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of National Textile Corporation Ltd., Coimbatore and their workmen)

BETWEEN

The Secretary : 1st Party/Petitioner
Sivagangai District Workers Union
Union (AITUC)
1/87, Thondi Road
Kalayarkoil
And Three Others

AND

The Sr. Manager (HR)-L : 2nd Party/
National Textile Corporation Ltd. Respondent
NTC House, P.O. Box No. 2409
35-B, Somasundaram Mills Road
Coimbatore - 641009

Appearance:

For the 1st Party/ : M/S. Ramapriya Gopalakrishnan,
Petitioner Union Advocate

For the 2nd Party/ : M/s. T. S. Gopalan & Co.,
Management Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/19/2013-IR(DU) dated 24.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the management of NTC Ltd., Kalayarkoil in respect of not considering the demands of the non-recognized Union is justified or not? To what relief the representatives of the Petitioner Unions are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 70/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, श्री रंगाविलास ओटाई स्पिनिंग एंड वीविंग मिल्स, कोयम्बटूर, के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 50/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/212/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

AWARD

S.O. 2951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 50/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Sri Rangavilas Ginning Spinning & Weaving Mills, Coimbatore and their workmen, which was received by the Central Government on 05/11/2014.

[No. L-42011/212/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 15th October, 2014**Present :**

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 50/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Rangavilas Ginning, Spinning and Weaving Mills and their workmen)

BETWEEN

The Secretary Coimbatore Erode District Dravida Panchalai Thozhilalar Munnetra Sangam (MLF) VKK Menon Road, Sidhdhapudur Coimbatore-641044	: 1 st Party/ Petitioner Union
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AND

The General Manager Sri Rangavilas Ginning Spinning and Weaving Mills, 333, Avinashi Road, PO Box No. 1604, Peelamedu Post) Coimbatore	: 2 nd Party/ Respondent
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Appearance:

For the 1st Party/ Petitioner Union	: M/s. Ramapriya Gopalakrishnan, Advocate
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For the 2nd Party/ Management	: M/s. T. S. Gopalan & Co., Advocates
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The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/212/2012-IR(DU) dated 15.04.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the management of Sri Rangavilas Ginning, Spinning and Weaving Mills, Coimbatore in respect of not holding discussions with Petitioner Unions viz. MLF, AITUC, ATP, HMS and BMS for engaging woman workers during third shift and introducing Contract Labour system in the permanent vacancies is justified or not? To what relief the petitioners are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 50/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:For the 1st Party/Petitioner Union : NoneFor the 2nd Party/Management : None**Documents Marked:**

On the petitioner's side

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बैडोदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय अरूनाकुलम के पंचाट (संदर्भ संख्या 4/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/78/2009-आईआर (बी.-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 4/2010) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the management of the Bank of Baroda and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/78/2009-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present:

Shri.D.Sreevallabhan, B.Sc., LL.B, Presiding Officer

(Wednesday the 27th day of July, 2014/5th Bhadrapada, 1936)

ID 4/2010

Workman : Shri K Vijayakumaran Nair T.C.41/1171,
Lalitha Bhawan ARWA-2, Kuriathi
Manacaud P O Thiruvananthapuram

By Adv. Shri M S Vijayachandra Babu

Management : The General Manager(SZ) Bank of Baroda
Zonal Office 90, CP Ramaswamy Road,
Alwar Pet Chennai

By M/s. B. S. Krishnan Associates

This case coming up for final hearing on 13.08.2014 and this Tribunal-cum-Labour Court on 27.08.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour vide its Order No-L-12011/78/2009-IR(B-II) dated 23.11.2009 has referred the industrial dispute Scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

“Whether the action of the management of Bank of Baroda in removing Shri K Vijayakumaran Nair, ex-Computer Operator working at its Thodupuzha Branch from the service of the bank was proper and justified? To what relief he is entitled to?”

3. The workman had joined as Stenographer in the service of the management bank in 1981. While he was working as Computer Operator at the Fort Branch,

Trivandrum he was transferred to Thodupuzha Branch on 11.08.2005. He had joined there on 19.08.2005. While he was working there disciplinary action was initiated against him by issuing chargesheet dated 10.08.2006. The charges levelled against him are as under:-

- “1. Willful damage or attempt to cause damage to the property of the Bank or any of its customer under clause 5(d) of the Bipartite Settlement.
2. Willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior- under clause 5(e) of Bipartite Settlement.
3. Doing act prejudicial to the interest of the Bank or gross negligence or negligence involving or likely to involve the bank in serious loss- under clause 5(j) of Bipartite Settlement.
4. Remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days under clause 5(p).
5. Failure to submit details of your assets and liabilities – under clause 37(ii) of the Bipartite Settlement dated 2.6.2006.
6. Incurring debts to an extent considered by the management as excessive – under clause 7(1) of Bipartite Settlement.
7. Absence without leave – under clause 7(a) of the Bipartite Settlement.
8. Unpunctual or irregular attendance – under clause 7(b) of the Bipartite Settlement.
9. Neglect of work or negligence in performing duties – clause 7(c) of the Bipartite Settlement.”

4. The charges levelled against him are on the basis of the allegations in the charge sheet which reads as follows:

“1. You were relieved from Fort Branch, Trivandrum on 11.08.2005 on your transfer to Thodupuzha branch and consequently, your SOD account with Fort Branch, Trivandrum was closed. Although the account was closed, you did not surrender the remaining/unused cheque leaves nor you informed details of the cheques in your possession/cheques already issued by you in respect of the said account. The following cheques of your closed SOD account presented at Fort branch, Trivandrum, were to be returned unpaid:

- (i) Cheque No.24934 dated 7.11.2005 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 7.11.2005.

- (ii) Cheque No.211614 dated 8.11.2005 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 8.11.2005.
- (iii) Cheque No.211615 dated 05.12.2005 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 6.12.2005.
- (iv) Cheque No.24935 dated 7.12.2005 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 07.12.2005.
- (v) Cheque No.211616 dated 05.01.2006 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 6.01.2006.
- (vi) Cheque No.24936 dated 09.01.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 09.01.2006.
- (vii) Cheque No.211617 dated 05.02.2006 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 7.02.2006.
- (viii) Cheque No.24937 dated 08.02.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 08.02.2006.
- (ix) Cheque No.211617 dated 05.02.2006 for ₹ 1371/- favouring HSBC Bank re-presented at Fort branch, Trivandrum & returned on 14.02.2006.
- (x) Cheque No.24938 dated 07.03.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 08.03.2006.
- (xi) Cheque No.24939 dated 07.04.2006 for ₹ 1910/- favouring HDFC Bank returned on 08.04.2006.
- (xii) Cheque No.24940 dated 07.05.2006 for ₹ 1910/- favouring HDFC Bank returned on 08.05.2006.
- (xiii) Cheque No.24941 dated 7-6-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-6-06.
- (xiv) Cheque No.24942 dated 7-7-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-7-06.
- (xv) Cheque No.24943 dated 7-8-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-8-06.

2. Our Thodupuzha branch has received the following written complaints regarding your conduct of financial matters:

- (i) Complaint received on 6.12.2005 from one Ms.K Radhamma from Trivandrum stating that you borrowed ₹ 25,000/- from her in July, 2004, (while you were posted at Fort, Trivandrum branch), which is not repaid.
- (ii) Complaint dated 25.04.2006 from one Mr. P.A.Ashraff, Thodupuzha, stating that you have borrowed ₹ 23,000/- from him which is not repaid.

3. You were issued letter No.BR:STF:13/281 dated 26.4.2006 by Thodupuzha branch to submit statement of your assets and liabilities within 4 days. However you failed to comply with the instructions.

4. Thodupuzha branch has also reported about complaints/calls over phone received from the following persons:

- | | |
|------------|---|
| 20.09.2005 | - Call from SBI Card Manager Mr. Ajit. |
| 29.10.2005 | - One Mr.Suresh from HDFC Bank Credit Card Dvn, Trivandrum called at 10 a.m. |
| 14.11.2005 | - Call from Trivandrum at 5.30 pm revealing that the call is from Police Commissioner, Trivandrum. Identifying Mr. Abdullah Ahmed, talked regarding loan of ₹ 40,000/- from HDFC Bank. Again there was a call for you at around 6.20 pm |
| 13.12.2005 | - One Ms.Radhamma called from Trivandrum for ₹ 25,000/- plus interest for one and half years. Her complaint in writing was received on 6.12.2005. |
| 13.12.2005 | - call from HSBC Bank around 2 pm. |
| 13.03.2006 | - One Mr. Jibu came and told that you borrowed ₹ 15,000/- from Mangattukavala area and ₹ 3,000/- & ₹ 2,000/- from different persons. |
| 20.04.2006 | - Call from Mr.Arun, HDFC Bank, Trivandrum regarding ₹ 70,000/- overdues. |
| 21.04.2006 | - Call from Mr.Biju John, HDFC Bank, Cochin regarding ₹ 70,000/- overdues. |
| 24.04.2006 | - One Chandra from Kizhakkokotta called regarding dues of ₹ 10,000+ ₹ 13,000/-. |

5. You had remained unauthorisedly absent from 17.04.2006 to 24.06.2006. In the recent past, you were absent on the following dates

8.11.2005, 9.11.2005, 18.11.2005, 5.12.2005 & 6.12.2005.

Your loss of pay as on 25.6.2006 stands at 181 days.

6. On 30.1.2006 around 1.20 pm you shouted at Ms. Smilu Babu, Agrl. Officer, in the Banking Hall as under:

“Why you are telling that I am pretending to be sick, when I am actually sick”

On 6.4.2006 around 11.40 am, Mr. P B Sasi, a customer tendered cash along with paying in slip to the cashier Mr. V. Krishnankutty. He (Cashier) asked you to put the receipts serial number. You then shouted at the cashier why he has accepted the cash before scrolling.

It is also reported that there are occasional outbursts from you in the Banking Hall which adversely affect the Bank's image/business.

7. It is reported that while you were working as Computer Operator at Thodupuzha Branch, one Ms. Sujathamol, holder of SB a/c No.3218 had handed over to you ₹ 800/- in cash along with pay-in-slip for crediting the amount in her SB a/c. You had accepted the cash from her on that day and entered the amount in passbook and initialed for having received and credited the amount for ₹ 800/- in her SB account. However, on her next visit to the branch on 22-6-06 for withdrawing, she noticed that the balance in her SB account was only ₹ 100/- and ₹ 800/- handed over to you on 10-10-05 has not been accounted for, although necessary entry of depositing ₹ 800/- was made by you in the passbook. It has resulted in complaint made by her vide letter dated 22-6-06 to Branch Manager with regard to non-credit of ₹ 800/- in her account. You have not deposited ₹ 800/- in the above account and also made false entry in SB passbook given to Sujathamol. Further you had admitted the same vide your letter dated 11-7-2006".

5. Mr. M C George, Senior Branch Manager, Aluva Branch was appointed as the enquiry officer to enquire into the charges levelled against him. After conducting enquiry the enquiry officer submitted enquiry report after finding that all the charges except charge Nos.7 and 8 levelled against him were proved in the enquiry. The disciplinary authority accepted the findings and imposed the penalty of “Removal from Bank's service with superannuation benefits, i.e. Pension and/or PF Gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time”. The workman filed an appeal challenging the imposition of penalty before the Appellate Authority. The Appellate Authority did not interfere with the order of the disciplinary authority but as the wording of punishment was not in conformity with the Memorandum of Settlement on Disciplinary Action Procedure dated 10.04.2002 it was changed as “Removal

from the service with superannuation benefits i.e., pension and/or provident fund and gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time and without disqualification from future employment”.

6. After appearance before this Tribunal workman filed claim statement challenging the validity of the enquiry on the grounds that there is violation of the principles of natural justice in conducting the enquiry and that the findings of the enquiry officer are perverse as the same were entered into without having proper appreciation of the evidence. The legality of the punishment imposed on him is challenged on the ground that it is grossly disproportionate to the gravity of the charges levelled against him. The allegations in the chargesheet are disputed by stating that the 15 cheques, each one not exceeding ₹ 1,910/-, were issued for loan repayment to HDFC, HSBC Bank and SBI from his staff overdraft account maintained in the Fort branch before his transfer to Thodupuzha branch and that those cheques were happened to be bounced since his account in the Fort branch was closed after his transfer. The bouncing of the cheques was not on financial reasons but on technical grounds. Later he paid the amount and cleared the dues. Out of the total amount of ₹ 48,000/- borrowed from Smt K Radhamma and Shri PA Ashraff ₹ 45,500/- was repaid and the balance amount of ₹ 2,500/- was also repaid subsequently. He had submitted the statement of assets and liabilities on 02.05.2006 and it was not verified by the enquiry officer. There is no evidence in the enquiry to prove that the calls received over phone were either from borrowers or their representatives. The unauthorized absence was due to the refusal of the branch Manager to permit him to rejoin duty after his treatment in Chelsa Hospital, Trivandrum from 17.04.2006 to 24.06.2006. When he had approached with medical certificate to rejoin duty he was directed to appear before the medical board of Idukki District for medical examination but the medical board did not conduct any medical examination. On realizing it the Regional Office directed the branch authorities to permit him to rejoin duty. There is no unauthorized absence from duty and the absence from duty was solely due to the unreasonable and unjustifiable stand taken by the branch authorities in not allowing him to join duty without report from the medical board. There is no evidence to prove the allegations as to shouting against colleagues and the non-remittance of amount given by Smt Sujathamol. At the time of removal from service he was at the age of fifty two years and was having twenty six years of service. The management credited the provident fund and gratuity amount towards the loan amount availed by him for constructing a residential building without a proper application and without considering his request for selling the house and remitting the dues to the bank. It is due to the personal interest of the Manager of the Thodupuzha branch all the minor

issues were clubbed together to make a major charge against him. The removal from service is illegal and hence he is entitled for reinstatement with continuity of service and all other consequential benefits.

7. Management filed written statement reiterating the charges and the supporting allegations in the chargesheet and contending that the enquiry was conducted in accordance with law and in full compliance with the principles of natural justice. All the charges except charge Nos.7 & 8 were found to be proved by the enquiry officer after having a proper appreciation of the evidence in relation to the charges levelled against him. The disciplinary authority imposed the punishment based on the findings of the enquiry officer and after considering all the aspects of the case and the submissions of the workman. The appeal preferred by him before the Appellate Authority was dismissed and it is not correct to say that the punishment was modified by the Appellate Authority. The punishment imposed on him is not disproportionate to the gravity of the misconducts proved against him and it is proper, legal and justified. He had a previous history of being punished for issuing cheques without having sufficient funds in his account and also for other financial indiscipline. At the time of removal from service an amount of ₹ 9,13,318/- was due to the management bank and the same was adjusted from his terminal benefits and the balance amount of ₹ 1,37,093/- was credited to his housing loan account No.2. Those adjustments were made as per his oral request. Management has also granted permission to sell his house which was mortgaged with the bank subject to certain conditions. Afterwards the workman settled all the dues and the title deeds of his properties were released. There is no need to interfere with the punishment imposed on him and an award can be passed holding that the removal of the workman from service is proper and justified and hence he is not entitled to any relief.

8. Workman did not file any rejoinder.

9. As the validity of the enquiry was under challenge it was heard treating it as a preliminary issue. For the purpose of deciding it management produced the enquiry file and got it marked as Ext.M1 by examining the enquiry officer as MW1. After hearing both sides the enquiry was found to be invalid vide order dated 24.11.2011. After that management was given opportunity to adduce evidence to prove the charges levelled against the workman in view of the request made in the written statement. Four more witnesses were examined from the side of the management as MWs 2 to 5 and some of the documents in the enquiry file were got marked as Exts.M1(a) to M1(z) and Exts.M1(aa) to M1(ai). No oral evidence was adduced from the side of the workman. He had produced one document and the same was marked as Ext.W1. After closing the evidence the arguments for both sides were heard.

10. The points for determination are:

- (i) Whether the management has succeeded in proving all or any of the charges levelled against the workman?
- (ii) Whether the punishment imposed on the workman calls for any interference by this Tribunal?
- (iii) Whether the action of the management in removing the workman from the service of the bank was proper and justified?
- (iv) Whether he is entitled to any relief?

11. Point No.(i):- The charges numbered as 1 to 7, 9 and 10 in the chargesheet are based on the allegations serially numbered as 1 to 7 in it. The enquiry officer found that most of the charges are proved based on the admission of the allegations by the workman in the enquiry. The findings on the remaining charges were entered into after considering the evidence in the enquiry. As the enquiry was found to be invalid by this tribunal as per Preliminary Order dated 24.11.2011 it is necessary to have a detailed consideration of the evidence adduced before this tribunal to prove the charges. The charges are based on allegations 1 to 7 in the chargesheet. First of all it is to be considered whether the management has succeeded in proving those allegations.

12. The first allegation is relating to the issuance of 15 cheques from the Staff Over Draft (SOD) account of the workman with Fort Branch, Trivandrum. After closing the account he was asked to surrender the unused cheque leaves and to furnish the details of the cheques already issued by him. Those 15 cheques are from the SOD account of the workman is proved through the production of Ext.M1(ag). The issuance of the cheques and the dishonor of those cheques for the reason "account closed" is not disputed by the workman. In order to prove that the cheques were dishonoured after closing the account Ext.M1(af) was produced by the management. It will go to show that all those cheques were dishonoured after closing the account. He was asked to surrender the unused cheque leaves in his overdraft account and also to submit details of all the cheques issued and not presented for payment as per letter dated 04.05.2005 marked as Ext.M1(ah). He had given reply to it on 11.08.2005 marked as Ext.M1(ai) stating that he has no unused cheque leaves in his possession and without giving details as to the cheques already issued by him.

13. In the chargesheet marked as Ext.M1(aa) it is specifically stated that those cheques were issued by him after closing the account and hence the same were dishonoured for the reason "account closed". In his reply to the chargesheet dated 21.08.2006 marked as Ext.M1(ab) his explanation is that those cheques are from the 36 and 28 cheques issued for payment of monthly

instalments towards the payment of the two loans availed from HDFC and CITI finance and that the same were happened to be dishonoured since those were presented after closing his SOD account with the Fort Branch. In para 6 of the claim statement it is stated that those cheques were issued by him favouring either HDFC, HSBC Bank, SBI being credit card/personal loan repayments in Fort Branch and were dishonoured for the reason 'account closed' as those were presented after closing the account with the Fort Branch pursuant to his transfer to Thodupuzha branch. There is not even an iota of evidence in this case to prove that those cheques were issued by him for the repayment of loans prior to the closing of the account as alleged by him. Even if those cheques were issued before closing the account then also it was his bounden duty to state it in Ext.M1(ai) reply to M1(ah) letter asking him to give the details of the cheques already issued by him. Since all those cheques are seen dishonoured after closing the SOD account in the Fort branch and those cheques are bearing dates subsequent to the closing of the account it cannot easily be found that those cheques were issued prior to the closing of the account especially in the absence of any evidence to prove the same. His failure to furnish the details of the cheques already issued by him in Ext.M1(ai) cannot be said to be without any malafide intention. If the cheques were already issued by him before the closing of the account with the Fort branch he could have informed it to the concerned financial institutions. The dishonor of the cheques for the reason 'account closed' can be treated as an act prejudicial to the interest of the bank. Hence it can be held that the first allegation is duly proved by the management bank.

14. The second allegation in the chargesheet is with regard to the complaints made by Smt Radhamma and Shri P A Ashraff, copies of which were respectively marked as Exts.M1(a) and M1(b). Ext.M1(a) was received in the bank on 06.12.2005 about the non-payment of an amount of ₹ 25,000/- received by way of loan by the workman from Smt Radhamma. M1(b) is the letter dated 25.04.2006 and it is about the non-payment of ₹ 23,000/- availed by him by way of loan from Shri P A Ashraff. In Ext.M1(ab), his explanation is that he had borrowed ₹ 5,000/- and ₹ 3,000/- by way of loan from Smt Radhamma and that he had repaid ₹ 3,000/- and for the remaining ₹ 5,000/- he had issued a cheque. As he was unable to pay monthly interest for about six months, she tried to contact him at Thodupuzha branch over telephone. In the case of Shri Ashraff, he was only a guarantor for the loan of ₹ 23,000/- availed by his friend. Since his friend had absconded Mr.Ashraf came to the branch to get the interest. It is because of the threat of the Manager of the Thodupuzha branch Shri N V Ouseph they had made written complaints and Smt Radhamma claimed ₹ 25,000/- as per his instruction. There is no evidence in this case to

satisfy that the amount borrowed from Smt Radhamma was stated to be ₹ 25,000/- as per the instruction of the then Manager Shri N V Ouseph. He had denied it during his cross examination when he was examined as MW2.

15. In para 7 of the claim statement it is expressly admitted that he had borrowed a total amount of ₹ 48,000/- from Smt K Radhamma and Shri P A Ashraf. It is stated that ₹ 45,500/- was repaid and the balance was only ₹ 2,500/- and the same was also subsequently paid by him. Explanation in Ext.M1(ab) is totally inconsistent with the allegation in the claim statement. So it can very well be held that he had borrowed a total amount of ₹ 48,000/- from Smt Radhamma and Shri P A Ashraff and his explanation with regard to the same in Ext. M1(ab) is a cooked up one. Such complaints from borrowers will tarnish the image of the bank. Hence management has succeeded in proving the second allegation as to the complaints of Smt Radhamma and Shri Ashraff.

16. Whether it was excessive borrowing is a matter to be decided by the management bank as the management is having the discretion to decide the question as to excessive borrowal by an employee. In Ext.M1(ae) reply to the notice issued by the disciplinary authority proposing penalty there is admission of borrowal of amounts from several persons and its subsequent discharge. It is clearly proved in this case that he had availed loans from several financial institutions and private parties.

17. Failure to submit his assets and liabilities by the workman pursuant to the letter dated 26.04.2006 marked as Ext.M1(c) is the third allegation levelled against him. In Ext.M1(ab) explanation it was submitted by him that he had furnished the statement of assets and liabilities and once again submitting the same. In the claim statement it is stated by him that it was submitted on 02.05.2006. No evidence was adduced by him to prove that it was submitted on that day. In this connection it is to be pointed out that the workman was on leave from 17.04.2006 and when he came to join duty on 26.04.2006 Ext.M1(c) was issued calling upon him to submit the statement of assets and liabilities and another letter marked as M1(w) advising him to undergo medical examination at District General Hospital, Thodupuzha without permitting him to rejoin duty. Thereafter he was not allowed to join duty till 26.06.2006. In Ext.M1(u), the copy of the letter dated 26.06.2006 addressed by the Branch Manager to the Assistant General Manager for getting instructions on the leave applications and medical certificate submitted by the workman, it is seen pointed out that the statement of assets and liabilities was not furnished by him till that date. As he was served the original of Ext.M1(c) on 26.04.2006 the statement was to be filed within four days after the receipt of the same. It is not seen that any request was made by him for extension of time for filing it. There is failure on his part to submit statement within the time

provided for it. There is also no evidence to prove that it was filed at any time before 26.06.2006. Hence it can be held that the workman had failed to furnish the statement of assets and liabilities as required by the management which amounts to a gross misconduct.

18. The fourth allegation is about the calls received in the Thodupuzha branch from different persons including those who made demands for repayment of the amounts due to them. In Ext.M1(ab) explanation nothing is stated about it by him except as to the call made by Smt Radhamma. In para 8 of the claim statement after admitting that several calls were received over phone while he was working in Thodupuzha branch it is contended that no evidence was adduced in the enquiry to prove that those calls were either from borrowers or their representatives. There is no reliable evidence in this case to prove that all those calls were with regard to the amounts borrowed or the loans availed by him. For the reason that there is no specific denial with regard to that allegation in the chargesheet in Ext.M1(ab) it is not sufficient enough to hold that the calls were from borrowers. Merely on the basis of phone calls without ascertaining the identity of the persons it is not possible to arrive at a just conclusion that such calls were actually made by persons from whom he had borrowed money. The allegation cannot be said to be proved with the available evidence in this case.

19. The fifth allegation in the chargesheet is as to unauthorized absence from 17.04.2006 to 24.06.2006 and about his absence on 08.11.2005, 9.11.2005, 18.11.2005, 5.12.2005 and 6.12.2005 and also with regard to the absence on loss of pay for 181 days upto 25.06.2006. The allegation as to unauthorized absence from 17.04.2006 to 24.04.2006 was due to illness and the same was substantiated by producing medical certificates. MW2 has also stated during his cross examination that leave was already granted for that period. Hence it cannot be held that he was unauthorisedly absenting himself from duties from 17.04.2006 to 24.04.2006. The absence on the dates specified in the chargesheet on loss of pay is proved through the production of Ext.M1(m). He was absent on those days and was on loss of pay. It is not disputed that he was on loss of pay for 181 days upto 25.06.2006. Hence it can be held that it is a case of unpunctual and irregular attendance. He was absenting himself without prior intimation and also without submitting leave application in time.

20. The sixth allegation is regarding the shouting by the workman against Ms. Smilu Babu on 30.01.2006 around 1:20 pm while she was in the banking hall and also against Mr. V Krishnankutty at about 11:40 am on 06.04.2006. There is absolutely no evidence in this case to prove the allegation as to shouting against Ms. Smilu Babu. Shouting against Mr. V Krishnankutty who was the then

cashier is admitted by the workman in Ext.M1(ab) explanation. But it is stated that Mr. Krishnankutty received cash before putting scroll number in the pay-in-slip and infuriated him when he was asked about it. In Ext.M1(ab) it is stated that he had shouted after the reply of Mr Krishnankutty. MW2, during his cross examination, has stated that there was exchange of words between the workman and Mr Krishnankutty and it was at that time the workman shouted and the same does not deserve any serious consideration. No action is seen to have been taken against Mr Krishnankutty about it. The nature of the shouting or the words used by the workman at the time of shouting are not stated or proved by the management. Hence it cannot be held that there was shouting by the workman which calls for any action against him.

21. The seventh allegation is as to the misappropriation of an amount of ₹ 800/- received by him from the customer Ms Sujathamol for remittance in her SB A/c No.3218 without accounting it after making entry in her pass book. In Ext.M1(ab) he has admitted the receipt of ₹ 800/- from her on 10.10.2005. His explanation is that since she was in a hurry to go entry was made in her pass book as per the request made by her and because of the heavy work on that day he failed to remit the amount. But later it was remitted in her account and thereby the issue was settled. Regarding the non-remittance of the amount Ms Sujathamol made Ext.M1(d) complaint on 22.06.2006 after getting knowledge about the non-remittance when she came to withdraw the amount from her SB account on that day. The receipt of the amount is admitted by the workman in the claim statement. Ext.M1(e), the photocopy of the relevant pages of her passbook, would go to show that entry was made in her passbook in respect of that amount on 10.10.2005. Ext.M1(f) is the copy of statement of accounts and the same will go to show that no entry was made with respect to receipt of that amount on 10.10.2005. Workman remitted an amount of ₹ 800/- on 01.07.2006 and the same is evidenced by Ext.M1(g), the copy of the letter addressed by him to the branch manager. Ext.M1(k), the copy of the statement of accounts for the period from 01.09.2005 to 06.07.2006, is produced to prove the remittance of ₹ 800/- on 01.07.2006 and ₹ 21/- on 04.07.2006 in the account of Ms Sujathamol.

22. Pointing out the discrepancy in the name in the documents as Sujithamol it was argued by the learned counsel for the workman that the same cannot be relied on to prove the allegation. In the chargesheet the account number is shown as 3218. In those documents also the SB account number is given as 3218. Merely for the reason that there is a typing error in the name given in the chargesheet it cannot be held that those documents cannot be relied on to prove that allegation. There is the express admission in Ext.M1(ab) and in the claim

statement as to the receipt of the amount of ₹ 800/- from the customer and keeping it without remitting until the receipt of the complaint from that customer about the non-remittance.

23. Exts.M1(h), M1(i) and M1(j) would go to show that the workman remitted an amount of ₹ 800/- and ₹ 21/- as interest in the account of Ms. Sujathamol on 01.07.2006 and 04.07.2006 respectively. The explanation submitted by the workman that the entry was made in the passbook after the receipt of the amount because Ms. Sujathamol was in a hurry and made request to make entry is not supported by any evidence in this case. It cannot also be accepted as a reasonable explanation for the non-remittance of the amount received by way of cash from a customer came to remit the amount in the bank. If it was because of the cordial relationship or close acquaintance with the customer there is the least chance of making a complaint after getting knowledge of the non-remittance. But it was illegal retention of the amount entrusted with him by the customer amounting to misappropriation.

24. In view of the aspects discussed above it can be held that the management has succeeded in proving allegation Nos.1 to 3, 7 and second limb of allegation No.5 in the chargesheet. Based on the above findings as to the allegations in the chargesheet charge Nos.1 to 3, 5 to 7 and 9 & 10 can be held to be proved as against the workman.

25. Point No.(ii):-Disciplinary Authority imposed penalty of “removal from bank’s service with superannuation benefits, i.e., pension/or PF gratuity as would be due otherwise under the Rules and Regulations prevailing at the relevant time” for the charges 1 and 3 in the chargesheet and warning for the other charges found to have been proved by the enquiry officer. It was confirmed by the Appellate Authority with the change of wordings as to the penalty for charges 1 and 3 as “removal from the service with superannuation benefits i.e., pension and/or Provident Fund gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment”. Taking into consideration of the embezzlement of money of a customer, the financial indiscipline the previous instance of imposition of penalty as well as the other facts and circumstances it cannot be said that the punishment imposed on him is shockingly disproportionate to the proved misconducts.

26. In the decision reported in State Bank of India and Another Vs. Bela Bagchi and Others (2005) 7 SCC 435 it was held by the Apex Court that the charge with regard to receipt of money from an account holder for depositing in his saving bank account and making fraudulent or fictitious credit entry in the passbook by the employee of the bank is serious in nature and the contention that no

loss was caused to the bank is no defence. It was also held:

“A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. Even acting beyond one’s authority is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of loss is also without substance”.

27. There was a futile attempt on the part of the workman to prove that he was earlier imposed with penalty for the very same misconducts by producing Ext.W1. But on a perusal of Ext.W1 it can be seen that it does not relate to the alleged misconducts in this case. It can also be seen that he was imposed with penalty of bringing down to lower stage in the scale of pay by two stages in terms of clause 6(e) of the Memorandum of Settlement dated 10.04.2002 on disciplinary action procedure for similar misconducts. It is also to be borne in mind that he was imposed with such a penalty for the charge levelled against him as per order dated 15.02.2006. It cannot be said that the imposition of penalty for charge Nos.1 & 3 in the chargesheet in this case is too severe to have any interference by this Tribunal. Hence it is held that the penalties imposed on him for the various misconducts do not call for any interference by this Tribunal.

28. Point No.(iii):-As it is already found that the penalty imposed on the workman is not arbitrary or illegal it can be held that the action of the management in removing the workman from the service of the bank is proper and justified.

29. Point No.(iv):-In the result an award is passed holding that the action of the management of removing the workman from service is legal and justified. Hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witnesses for the workman - NIL

Witnesses for the management

MW1 11.08.2011 Shri M. C. Josekutty

MW2 01.11.2012 Shri N. V. Ouseph

MW3	15.04.2013	Shri Baven C Tharaken	M1(k)	- Photocopy of statement of account for the period from 01.09.2005 to 06.07.2006
MW4	10.06.2013	Shri Sriraman K A	M1(l)	- Photocopy of letter No. BR: STF:13/283 dated 27.04.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
MW5	31.07.2013	Shri K R Sivaramakrishna Iyer	M1(m)	- Photocopy of Register of Employment for the period from 06.11.2005 to 10.12.2005
Exhibits for the workman				
W1	-	True copy of Order No. RO:KER: HRM:26/318 dated 15.02.2006 issued by the Assistant General Manager (Kerala Region) & Disciplinary Authority, Bank of Baroda	M1(n)	- Copy of letter No.BR:STF:13/278 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch
Exhibits for the Management :				
M1	-	Enquiry File	M1(o)	- Copy of letter No.BR:STF:13/280 dated 26.04.2006 addressed to the Superintendent, Government General Hospital, Thodupuzha by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(a)	-	Photocopy of letter dated Nil addressed to the Manager, Bank of Baroda, Thodupuzha branch by Smt. K Radhamma	M1(p)	- Copy of letter No.BR:STF:13/271 dated 11.05.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(b)	-	Photocopy of letter dated 25.04.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by Shri P A Ashraff	M1(q)	- Copy of letter dated 26.06.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by the workman
M1(c)	-	Photocopy of letter No.BR:STF 13/281 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch	M1(r)	- Copy of Medical Certificate dated 24.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(d)	-	Photocopy of letter dated 22.06.2006 addressed to Bank of Baroda, Thodupuzha branch by Smt. Sujithamol S	M1(s)	- Copy of the Fitness Certificate dated 26.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(e)	-	Photocopy of relevant pages of Savings Bank Pass Book of Smt. Sujithamol S	M1(t)	- Copy of the Certificate dated 26.06.2006 issued by Dr. N Shunmukom, Chelsea Hospital, Karamana, Thiruvananthapuram
M1(f)	-	Photocopy of statement of account for the period from 01.09.2005 to 22.06.2006	M1(u)	- Copy of letter No.BR:STF:14/19 dated 26.06.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(g)	-	Photocopy of letter dated 01.07.2006 addressed to the Branch Manager, Bank of Baroda, Thodupuzha branch by the workman	M1(v)	- Copy of the Medical Certificate dated 16.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(h)	-	Photocopy of letter dated 06.07.2006 addressed to Smt Sujithamol S by the Branch Manager, Bank of Baroda, Thodupuzha branch	M1(w)	- Copy of letter No.BR:STF:13/278 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(i)	-	Photocopy of letter No. TDPA: STF:14/33 dated 07.07.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch		
M1(j)	-	Photocopy of letter No.RO:KER: HRM:26/1551 dated 04.07.2006 addressed to Smt. Sujithamol S by the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam		

- M1(x) - Photocopy of Register of Leave particulars for the period from 01.01.2006 to 31.03.2006
- M1(y) - Letter dated 11.07.2006 addressed to the Branch Manager Bank of Baroda, Thodupuzha branch by the workman
- M1(z) - Letter dated 11.05.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by the workman
- M1(aa) - Copy of Chargesheet dated 10.08.2006 issued to the workman by the Assistant General Manager(Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ab) - Copy of letter dated 21.08.2006 addressed to the Branch Manager, Bank of Baroda, Thodupuzha branch by the workman
- M1(ac) - Copy of notice dated 23.04.2007 issued by the Deputy General Manager (Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ad) - Copy of Order dated 10.05.2007 of the Deputy General Manager(Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ae) - Submission of the workman dated 30.04.2007 to the Disciplinary Authority & the Deputy General Manager, Bank of Baroda, Regional Office(Kerala), Ernakulam
- M1(af) - Copy of Cheque Returned Outward Register for the period from 18.10.2005 to 04.09.2006
- M1(ag) - Copy of Cheque Book Register for the period from 31.05.2004 to 04.11.2004
- M1(ah) - Copy of letter No.FORT/STF/2005/41 dated 04.05.2005 addressed to the workman by the Sr.Branch Manager, Bank of Baroda, Fort Branch, Thiruvananthapuram
- M1(ai) - Copy of letter dated 11.08.2005 addressed to the Senior Manager, Bank of Baroda, Fort, Trivandrum by the workman.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अरूनाकुलम के पंचाट (संदर्भ संख्या 22/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/4/2011-आईआर (बी.-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 22/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of the Indian Bank and their workman, which was received by the Central Government on 05/11/2014.

[No.L-12012/4/2011-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present:

Shri D. Sreevallabhan, B.Sc., LLB, Presiding Officer

(Monday the 29th day of September, 2014/7th Asvina, 1936)

ID 22/2011

Workman : Shri M K Unnikrishnan Kizhalethu
House West Hill PO Edakkad
Kozhikode – 5 Kerala

By M/s.. H.B.Shenoy Associates

Management : The Chief Manager (HRM) Indian Bank,
Head Office H R Department 66 Rajaji
Salai CHENNAI - 600001

By Adv. Shri S.Easwaran

This case coming up for final hearing on 22.09.2014 and this Tribunal-cum-Labour Court on 29.09.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide its Order No. L-12012/4/2011-IR(B-II) dated 13.06.2011 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Indian Bank with Headquarters at Chennai in superannuating Shri M. K. Unnikrishnan, Tiny Deposit Collector of Kozhikode Branch w.e.f.15.07.2007 is justified and legal? What relief the workman is entitled to?"

3. The workman joined the services of the management bank as tiny deposit collector at its Kozhikode branch on 15.11.1980. He was terminated from service on 15.07.2007 for the reason that he had attained the age of superannuation. The legality and justifiability of the termination is challenged by the workman by raising this industrial dispute.

4. After appearance before this Tribunal workman filed claim statement by making the allegations that he was in continuous service of the management bank from 15.11.1980 and was orally terminated from service on 15.07.2007 by the management bank, on the premise of having attained the age of superannuation unilaterally fixed by the bank, without complying with the requirements under section 25F of the Industrial Disputes Act, 1947. There is no retirement age or age of superannuation for the workman as per the conditions of service and the contract of employment governing his service in the management bank. Hence the termination amounts to retrenchment and it was effected without notice or payment of wages in lieu of notice and without paying compensation as provided under Section 25F of the ID Act. It is illegal and unjust and hence the workman is entitled to the benefits under section 25F of the ID Act.

5. In the written statement management, after denying the allegations in the claim statement, would contend that after his engagement as tiny deposit collector on 15.11.1980 his service was discontinued from 31.03.1982 and he was again engaged from 21.07.1993 after the reintroduction of the scheme w.e.f. 01.04.1993. One of the primary conditions for reintroduction of the said scheme was that those agents who were working at the time of discontinuance of the scheme will be engaged only if they have not attained the age of 60 years as on 01.04.1993. The service conditions of the tiny deposit collectors is as per the terms of the award dated 22.12.1988 in ID 14/1980 passed by the Industrial Tribunal, Hyderabad. They were found to be workman coming within the purview of the definition of section 2(s) of the Industrial Disputes Act. In WP No.9783/1987 filed before the Hon'ble High Court of Andhra Pradesh the finding of the tribunal was upheld but it was held that they cannot claim to be regular employees of the bank and the same was upheld by the Apex Court by its judgment dated 13.02.2001. The tiny deposit collectors are only eligible for full back wages, incentive commission, conveyance allowance and gratuity as per the decision in that case. The service conditions are as per the award and related to the Bipartite Settlement of award staff. As per the Bipartite Settlement the age of retirement is 60 years if his efficiency is found to be non-impaired by the employer when he reaches the age of 57 years. It is not correct to say that the workman was terminated from service without issuance of notice or

payment of wages. By letter dated 13.07.2007 he was informed that he would be disengaged from service on 15.07.2007 on attaining the age of superannuation and hence not to collect tiny deposits. As per the judgment of the Hon'ble Supreme Court the tiny deposit collectors cannot be equated with the regular employees with regard to the service conditions. As per the terms of the Bipartite Settlement, the scheme introduced by the bank for engagement of tiny deposit collectors and the letter of undertaking given by the workman he is not entitled to make any claim under section 25F of the Industrial Disputes Act.

6. Workman filed replication denying the contentions in the written statement and reaffirming the allegations in the claim statement.

7. For the purpose of deciding this case no evidence, either oral or documentary, was adduced by the workman. From the side of the management one witness was examined as MW1 and Exts.M1 to M5 were got marked.

8. The points for determination are:-

(i) Whether the termination of the service of the workman is to be in accordance with Section 25F of the Industrial Disputes Act?

(ii) Whether the action of the management in superannuating the workman w.e.f. 15.07.2007 is justified?

(iii) What relief, if any, he is entitled to?

9. **Point No. (i):**—It is not in dispute that the workman was employed as a tiny deposit collector by the management bank on 15.11.1980. In the claim statement it is alleged that he was in continuous service thereafter until his termination on 15.07.2007. But it is contended in the written statement that his service was discontinued from 31.03.1982 and he was re-engaged from 21.07.1993 after the reintroduction of the Tiny Deposit Scheme w.e.f. 01.04.1993. It is proved that he was disengaged and subsequently re-engaged with the re-introduction of the scheme through the testimony of MW1 as well as Ext.M3 letter of undertaking dated 09.06.1993 given by the workman for his re-engagement.

10. Admittedly he was terminated from service on 15.11.2007. Even though it is alleged that his service was terminated orally the same cannot be accepted as true in view of Ext.M4 issued from the management bank to the workman as to his disengagement on 15.07.2007.

11. According to the workman his service was terminated on the premise of attaining the age of superannuation unilaterally fixed by the management and it amounts to retrenchment which necessitates the

compliance of the requirements under Section 25F of the Industrial Disputes Act, 1947. On the other hand it is contended by the management bank that the age of superannuation of a workman is 60 years as per the terms of the Bipartite Settlement dated 17.09.1984 and it is also evident from the instructions as to the reintroduction of tiny deposit scheme dated 30.03.1993, copy of the relevant portion of which is marked as Ext.M2.

12. Clause XIII of the said Bipartite Settlement contains provisions as to the age of retirement and the same reads as follows:-

“XIII. Age of Retirement

In reiteration of Chapter XVIII of the First Bipartite Settlement dated 19th October, 1966 and similar provisions in the settlements of other member banks who are parties to this Settlement, it is stated as under:

(i) For Banks other than State Bank of India:

“After a workman has reached the age of 57 years, he may be retired after giving him two month’s notice in writing in case his efficiency is found by the employer to have been impaired. Subject to this rule and also subject to any rule under an existing pension fund, a workman shall not be compelled to retire before he is 60 years old nor will it be necessary to give a workman a letter extending his services till he is sixty years old.”

(ii) For State Bank of India:

“A workman shall normally retire on reaching the age of 58 years. The Bank will, however, grant to a workman who continues to be physically fit and efficient an extension of service upto 60 years of age, but service beyond 58 years of age will not be counted for any purpose with or in relation to pension.”

13. Clause XIII(i) of that Bipartite Settlement is applicable to the management bank. As per that provision the retirement age of the workman is 60 years and he cannot continue in service thereafter. As per Clause XIII of the Bipartite Settlement no workman can claim to be in service after the age of 60 years.

14. Relying on the judgment of the Apex Court in Indian Banks Association Vs. Workmen of Syndicate Bank & Ors., copy of which is marked as Ext.M5, it was submitted by the learned counsel for the workman that though the tiny deposit collectors were found to be workmen it was held that they cannot be equated with

regular employees with the same service conditions. It was further submitted by him that since it was held that the service conditions of the regular bank employees are not applicable to the tiny deposit collectors the provision contained in that Bipartite Settlement as to the retirement age cannot be made applicable to them. The matter came up for consideration in that case is whether the tiny deposit collectors are workmen coming within the purview of the definition under section 2(s) of the Industrial Disputes Act and they are entitled to be absorbed in regular service with the pay, allowances and other benefits of the regular employees. The question as to the age of retirement or superannuation of the tiny deposit collectors was not considered while dealing with that case. The said Bipartite Settlement or any of its provisions was not at all considered while dealing with that matter. Clause XIII of the said Bipartite Settlement expressly provides that the age of retirement of the workman cannot be above 60 years.

15. At the time of re-introduction of the scheme only those who had not attained the age of 60 years as on 01.04.1993 was only re-engaged and it is evident from Ext.M2. The conditions of service in Ext.M2 are admitted to by the workman in Ext.M3. It is expressly clear from Ext.M2 that the tiny deposit collectors can continue to work only upto the age of 60 years. Workman has no case with regard to the age of retirement. Since the tiny deposit collectors are workmen coming within the definition of Section 2(s) of the Industrial Disputes Act the retirement age is to be in accordance with the provision contained in the said Bipartite Settlement. It is also apparently clear from Ext.M2 that there cannot be continuance of service as tiny deposit collectors after the age of 60 years. It is a paradox if those who were re-engaged will be allowed to continue to be in service after 60 years. The workman was terminated from service on completion of the age of 60 years by issuing the original of Ext. M4. In the case of superannuation it is not necessary to have compliance with the requirements under Section 25F of the Industrial Disputes Act. It cannot in any way be said that it is retrenchment and hence it is necessary to comply with the requirements under Section 25F of the ID Act.

16. **Point No.(ii):**—There is nothing illegal in superannuating the workman w.e.f.15.07.2007 on completion of the age of 60 years. Hence the action of the management can be held to be legal and justified.

17. **Point No.(iii):**—In the result an award is passed holding that the action of the management in superannuating the workman w.e.f.15.07.2007 is justified and legal. Hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 29th day of September, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the workman : NIL

Witness for the management :

MW1 23.04.2014 Shri K. N. Murugappan

Exhibits for the workman : NIL

Exhibits for the management :

- M1 - Copy of relevant portion of the Fourth Bipartite Settlement dated 17.09.1984.
- M2 - Copy of instructions as to reintroduction of Tiny Deposit Scheme in Indian Bank dated 30.03.1993.
- M3 - Copy of letter of irrevocable undertaking dated 09.06.1993 given by the workman to the Manager, Indian Bank, Kozhikode.
- M4 - Copy of letter dated 13.07.2007 issued by the Senior Manager, Indian Bank, Kozhikode to the workman.
- M5 - Copy of Judgment dated 13.02.2001 in Civil Appeal No.3355 of 1998 of the Hon'ble Supreme Court of India.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्रा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, मुंबई के पंचाट (संदर्भ संख्या 43/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/92/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 43/2013) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/92/2012-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

Present:

Justice S. P. MEHROTRA, Presiding Officer

Reference No. CGIT-1/43 of 2013

Parties: Employers in relation to the management of Bank of Maharashtra

And

Their workman

Appearances:

For the first party/ : Mr. Mr. M. B. Anchan, Adv.
Management

For the second party : None present
workman

State : Maharashtra

Mumbai, dated the 13th day of October, 2014

AWARD

1. The present reference has been made by the Central Government by its order dated 27.6.2013 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference as per the Schedule to the said order are as under:

“Whether the action of the management of Bank of Maharashtra, Pune Rural Regional Office, Pune by not providing the employment to Shri S. W. Satale as PTS inspite of working w.e.f. 25.5.1992 is legal and justified? What relief the workman Shri Satale is entitled to?”

2. By the order dated 23.12.2013 passed by the Tribunal, notices were directed to be issued to the parties fixing 14.2.2014. Notices were accordingly issued to the parties by Registered Post AD.

3. On 14.2.2014, Mr. M. B. Anchan, Advocate was present on behalf of the first party/Management. It was noted in the order dated 14.2.2014 that notice issued to the second party/Workman by Registered Post AD had been served, and the Acknowledgement Card had been received back. However, none was present on behalf of the second party/Workman on 14.2.2014. In the circumstances, the case was adjourned to 2.4.2014 for filing Statement of Claim.

4. On 2.4.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In

the circumstances, by the order dated 2.4.2014, the case was adjourned to 4.6.2014 for filing Statement of Claim.

5. On 4.6.2014, none was present on behalf of the second party/Workman. On mention being made on behalf of Mr. M. B. Anchan, learned counsel for the first party/Management, the case was adjourned on the said date, and 30.6.2014 was fixed.

6. On 30.6.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 30.6.2014, the case was adjourned to 2.9.2014 for filing Statement of Claim on behalf of the second party/Workman.

7. On 2.9.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 2.9.2014, the case was adjourned to 13.10.2014 (i.e. today) for filing Statement of Claim on behalf of the second party/Workman.

8. Pursuant to the order dated 2.9.2014, the case has been taken up today.

9. Mr. M. B. Anchan, learned counsel for the first party/Management is present. He has brought on record formal Authority in his favour issued by the first party/Management. However, today again, none is present for the second party/Workman. No Statement of Claim has been filed on behalf of the second party/Workman.

10. From the above narration of facts, it is evident that despite service of notice having been made on the second party/Workman, none has appeared on behalf of the second party/Workman on any of the dates fixed in the case. No Statement of Claim has been filed on behalf of the second party/Workman.

11. In view of the above, it is evident that there is no pleading or evidence on behalf of the second party/Workman in support of his claim. No relief can therefore, be granted to the second party/Workman in the present Reference.

12. The Reference is consequently answered by stating that no relief can be granted to the second party/Workman.

Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 44/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/18/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 44/2011) of the Central Government Industrial Tribunal-Cum-Labour Court-2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/18/2011-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/44 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF
CENTRAL BANK OF INDIA

The Assistant General Manager
Central Bank of India,
Mumbai Metropolitan Zonal Office
346, Standard Building
Dr. D.N. Road, Fort
Mumbai-400 023.

AND

THEIR WORKMEN.

The General Secretary
Central Bank Karmachari Sena
Central Bank of India
Mumbai Main Office, 2nd floor
M.G.Road, Fort
Mumbai 400 023.

APPEARANCES:

FOR THE EMPLOYER : Mr. L. L. D'Souza,
Representative

FOR THE WORKMEN : No appearance

Mumbai, dated the 26th September, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/18/2011/IR (B-II), dated 18.08.2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the Assistant General Manager, Central Bank of India, Mumbai in imposing the punishment of bringing down to one stage lower for one year in the time scale of pay upon Shri Vijay S. Amin, Peon (Sub-Staff) vide order No. SMRO/DAD 2009-10/1949 dated 21/10/2009 is legal, just and proper? What relief the workman concerned is entitled to?”

2. After receipt of the reference from Ministry of Labour & Employment, notices were sent to both the parties. Concerned workman appeared before this Tribunal on 13/12/2011 and requested for adjournment. Thereafter fresh notices were issued to second party vide Ex-5, 7, 10, 12, & 13. Acknowledgement to that effect is at Ex-11 & 14. The second party union has neither approached this Tribunal nor filed statement of claim. Since there is no statement of claim on record, therefore, this reference cannot be decided on merits and the same deserves to be rejected for want of prosecution. Thus I proceed to pass the following order:

ORDER

Reference stands rejected for want of prosecution.

Date: 26.09.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2956.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 45/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/19/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 45/2011) of the Central Government Industrial Tribunal-Cum-Labour Court-2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of the Central

Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/19/2011-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2,
MUMBAI**

PRESENT:

K. B. KATAKE, Presiding Officer

REFERENCE NO.CGIT-2/45 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF

CENTRAL BANK OF INDIA

The Assistant General Manager
Central Bank of India,
Mumbai Metropolitan Zonal Office
346, Standard Building
Dr. D. N. Road, Fort
Mumbai-400 023.

AND

THEIR WORKMEN.

The General Secretary
Central Bank Karmachari Sena
Central Bank of India
Mumbai Main Office,
2nd floor M. G. Road, Fort
Mumbai 400 023.

APPEARANCES:

FOR THE EMPLOYER : Mr. L. L. D'Souza,
Representative.

FOR THE WORKMEN : No appearance.

Mumbai, dated the 26th September, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/19/2011-IR (B-II), dated 18.08.2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the Assistant General Manager, Central Bank of India, Mumbai in imposing the punishment of bringing down to one stage lower for one year in the time scale of pay upon Shri Dadu H. Malusare, peon (Sub-Staff) vide order No. SMRO/DAD 2009-10/1948 dated 21/10/2009 is legal, just

and proper? What relief the workman concerned is entitled to?"

2. After receipt of the reference from Ministry of Labour & Employment, notices were sent to both the parties. Concerned workman appeared before this Tribunal on 13/12/2011 and requested for adjournment. Thereafter fresh notices were issued to second party vide Ex-7, 10, 12 & 13. Acknowledgement to that effect is at Ex-11 & 14. The second party union has neither approached this Tribunal nor filed statement of claim. Since there is no statement of claim on record, therefore, this reference cannot be decided on merits and the same deserves to be rejected for want of prosecution. Thus, I proceed to pass the following order:

ORDER

Reference stands rejected for want of prosecution.

Date: 26.09.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2957.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 37/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/94/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of the Union Bank of India and their workmen, received by the Central Government on 05/11/2014

[No. L-12012/94/2012-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 12th August, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 37/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Union Bank of India and their workman)

BETWEEN:

Sri M. K. Narayanan : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
(Personnel)

Union Bank of India,
Central Office
Union Bank Bhawan,
239, Vidhan Bhawan Marg,
Mumbai-400021

Appearance:

For the 1st Party/ : M/S.. Balan Haridas, Advocates
Petitioner

For the 2nd Party/ : M/S.. T.S. Gopalan & Co.,
Management Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/94/2012-IR (B-II) dated 01.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Union Bank of India, Coimbatore regarding termination of services of the petitioner, Sri M. K. Narayanan is justified or not? What relief the workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 37/2013 and issued notices to both sides. Both parties have entered appearance through their counsel and filed their claim and counter statement respectively. The petitioner has filed Rejoinder after the Counter Statement was filed.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner had joined service of the Respondent Bank in the year 1961. By the year 1995 he had rendered 34 years unblemished record of service. On 28.11.1995 the petitioner submitted a letter to voluntarily retire from service, owing to personal reasons. Petitioner has two sons, both of whom were having industries from the year 1985. The Sons had opened account with Gandhipuram

Branch of Respondent Bank and had availed cash credit loans. The petitioner had been the guarantor for those loans. The petitioner's Sons have borrowed money from private parties also, for their business. The industries run by the Sons of the petitioner came to be on loss and it was decided to close the factories and wind up the business. The petitioner had decided to sell his property and settle the dues of the bank and private lenders. However, the private lender wanted the money immediately and they threatened to take legal action against the petitioner. It was in such circumstances the petitioner submitted letter voluntarily retiring from service. After submitting the letter the petitioner migrated to Baroda alongwith his Sons. The petitioner did not inform this new address to the Bank as it would reach the private money lenders and they would start harassing the petitioner. The petitioner could not know what was happening to his application for voluntary retirement. In the year 2004, the petitioner contacted the Coimbatore Main Branch where he had worked last and claimed Provident Fund, Gratuity and Pension. He was paid only the contribution made by him to the Provident Fund. Employer contribution was not paid. Gratuity payable to him was adjusted towards the loan account of petitioner's Sons at Gandhipuram branch. Regarding Pension, the Respondent took the stand that the petitioner has been treated as abandoned the service. The petitioner had properly tendered letter to retire from service voluntarily. So treating the petitioner as a person who has abandoned service is grossly illegal. This amounts to termination of the petitioner from service without notice, without hearing and without any enquiry. In the circumstances, the petitioner has raised the dispute. The delay in raising the dispute is due to the reasons earlier stated. The case of the Respondent that the petitioner has been unauthorizedly absent is without any basis. The petitioner has already tendered letter for voluntarily resigning from service. The petitioner is entitled to terminal benefits on the basis of his voluntary retirement. An award may be passed holding that the action of the Management in treating the petitioner as voluntarily abandoned the service and terminating the service of the petitioner is grossly illegal and arbitrary and holding that the petitioner had validly tendered letter for voluntary retirement from service w.e.f. 28.11.1995 and direct the Respondent to pay all the terminal benefits, Gratuity, PF, Pension, Arrears of Pension, etc.

4. The Respondent has filed Counter Statement contending as follows:

The petitioner had joined the service of the Respondent in the year 1961 and was last working in Coimbatore Main Branch. His two Sons who had set up business and availed loans from the branches of the Respondent Bank in Coimbatore, the petitioner has stood guarantor for the loans. The petitioner had also availed

housing loan, clean loan, etc. He seems to have issued cheques without sufficient funds in the account. The petitioner absented himself from work from 21.11.1995 on the ground that he was ill and he applied for leave. After this, he made an application for voluntary retirement on 28.11.1995. By letter dated 29.12.1995 the Zonal Office at Chennai communicated to the Regional Office that his request for voluntary retirement could not be considered as he had loans outstanding with the bank. The decision of the Zonal Office was communicated to him only on 30.09.1996 since he remained absent without any communication. On 25.03.1996, a notice was issued to the petitioner pointing out his unauthorized absence and informing him that if he failed to report for duty within 30 days he will be treated as having left the service. Since the petitioner did not respond to the communication, he was treated as having left the service. Nothing was heard from the petitioner for a very long period. It was only on 03.06.2004 he sent a letter to the Respondent giving his address in Gujarat. Since the petitioner has abandoned his employment, he was not entitled to Pension in terms of Banks Pension Regulation Act. The dispute raised by the petitioner is bad on the grounds of delay, laches and inaction on his part. It is not a case of termination of employment of the petitioner by the Bank. It was cessation of employment brought about by the conduct of the petitioner in remaining absent without leave for more than 90 days. So he is not entitled to challenge the termination. The petitioner had passed the age of superannuation in the year 2003. The petitioner is interested to treat the cessation of the employment as termination so that he could make a claim for Pension. In any case, the petitioner who was not heard of more than 8 years is not entitled to advance the case that his removal from service in terms of the provisions of Bipartite Settlement is unjust. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the case in the Counter Statement and also reiterating his case in the Claim Statement.

6. The evidence in the case of consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W9 and Ext.M1 to Ext. M20.

7. The points for consideration are:

- (i) Whether the action of the management regarding termination of services of the petitioner is justified?
- (ii) What is the relief, if any to which the petitioner is entitled?

The Points

8. The petitioner had been working with the Respondent Bank from the year 1961. He had worked

with the Respondent until 21.11.1995 on which date he had applied for leave. Even before the expiry of the period for which he has applied for leave, on 28.11.1995, he sent a letter to the Respondent for voluntary retirement from service. Without waiting for the result of his application for voluntary retirement from service, the petitioner had stopped attending his duty at the Bank. Even as stated by the petitioner in his Claim Statement and by the Respondent in its Counter Statement also the petitioner had stood guarantor for the loan availed by his two Sons from different branches of the Respondent Bank at Coimbatore. According to the petitioner apart from bank loans, his Sons had raised private loans also. Since the industries of the Sons started to run on loss, the lenders began pressing for payment. The petitioner and his Sons seemed to have taken up residence at Baroda in Gujarat immediately after submitting letter for voluntary retirement from service by the petitioner.

9. The stand of the Respondent is that the request of the petitioner for voluntary retirement was not allowed since there were debts outstanding in the name of himself and his Sons. According to the respondent, since the petitioner absented himself from work unauthorizedly and since there was no response to the notice issued by the Bank the continuous absence of the petitioner was treated as abandonment of service. According to the respondent, the petitioner having abandoned the service, he was not entitled to pensionary benefits.

10. The initial question that is to be considered is whether there was abandonment of service actually by the petitioner. The counsel for the Respondent has referred to different decisions of the Apex Court to make out that there was actually abandonment of service on the part of the petitioner. Reference was made to the decision in *SYNDICATE BANK VS. GENERAL SECRETARY, SYNDICATE BANK STAFF ASSOCIATION* reported in (2000) 5 SCC 65, *PUNJAB AND SIND BANK AND OTHERS VS. SAKATTAR SINGH* reported in 2001 1 SCC 214, *VIVEK NAND SETHI VS. CHAIRMAN, J&K BANK LIMITED AND OTHERS* reported in (2005) 5 SCC 337 and also *REGIONAL MANAGER, BANK OF BARODA VS. ANITHA NANDRAJOG* reported in 2009 9 SCC 462. In the above decisions it was held that in the case of long unauthorized absence no domestic enquiry is required and the absence is to be treated as voluntary cessation of service.

11. If actually the petitioner was unauthorizedly absent from service for a long time it would be a case of abandonment of service, no doubt. However, the argument that is advanced by the counsel for the petitioner is that the absence on the part of the petitioner is not unauthorized absence he having submitted application for voluntary retirement from service and the same having

not been rejected it is to be treated as acceptance of his application for voluntary retirement. According to the counsel inspite of the above application the Respondent has treated the absence of the petitioner as abandonment from service and under this guise had terminated his service to deny pensioner benefits to him.

12. It is not disputed by the Respondent that a letter requesting for voluntary retirement has been submitted by the petitioner. In fact the document is produced by the Respondent and is marked as Ext.M3. At the stage of the argument, the counsel for the Respondent has advanced an argument that the application for Voluntary Retirement is not in proper form. However, on going through the documents produced by the Respondent it could be seen that throughout until the stage of argument there was never a case for the Respondent that the application for Voluntary Retirement was not entertained, the same not being in proper form. On the other hand, the stand of the respondent is that the request of the petitioner for Voluntary Retirement was rejected since dues were outstanding in his name as well as in the name of his Sons.

13. Even though, the Respondent has got a case that the application for Voluntary Retirement was rejected by the Zonal Office by letter dated 29.12.1995, even as admitted by the Respondent in its Counter Statement, the communication of rejection was not given to the petitioner until 30.09.1996 which according to the Respondent was due to absence of the petitioner from work. However this absence has not prevented the Respondent from later issuing a notice to the petitioner on 25.03.1996 stating that he was unauthorizedly absent and that he is to report for duty within 30 days. This notice marked as Ext.M7 is seen returned un-served since the petitioner has stopped residing in this address at Coimbatore and has already shifted to Baroda. Even as admitted by the petitioner he has not furnished his Baroda address to the Respondent. However nothing prevented the Respondent from making its stand safe by giving a communication of rejection of the application for Voluntary Retirement by sending it in the last known address of the petitioner.

14. Ex.M3 letter dated 28.11.1995 from the petitioner addressed to the Manager, Department of Personnel Affairs states that the petitioner is suffering from ill-health and therefore he is submitting his voluntary retirement from service with immediate effect under the Voluntary retirement Scheme on health grounds. The letter also requests to accept the request and to relieve him from service on receipt of the letter, at the earliest.

15. The Respondent has produced the Pension Regulations pertaining to the employees. Chapter-V referring to Pension gives two classes of pension, one on

superannuation and the other second on voluntary retirement. Clause-29.1 which refers to pension on voluntary retirement states that on or after the first day of November 1993, at any time after the employee has completed 20 years of qualifying service he may, by giving notice of not less than 3 months to the Appointing Authority, retire from service. Sub-Regulation-2 of Regulation-29 states that notice of voluntary retirement given shall require acceptance by the Appointing Authority. There is a proviso to this Sub-Regulation that where the Appointing Authority does not refuse to grant the permission for retirement before the expiry of the period specified in the notice, the retirement shall become effective from the date of expiry of the said period. Under Sub-Regulation-3, an employee referred to in Sub-Regulation-1 may make a request in writing to the Appointing Authority to accept notice of voluntary retirement of less than 3 months giving reasons. As per Clause-B of Sub-Regulation-3 the Appointing Authority may consider such request subject to the provisions of Sub-Regulation-2 and if it is satisfied that curtailment of the period of notice did not cause any administrative inconvenience the authority may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before expiry of the notice of three months. Under Sub-Regulation-4 even restriction is placed on the employee on withdrawing his notice for voluntary retirement.

16. On a perusal of Ext.M3 it is clear that the request for voluntary retirement by the petitioner was one under Sub-Regulation-2 of Regulation-29 read with Sub-Regulation-3. He has stated in his letter that he is suffering from ill-health, that he is seeking voluntary retirement on health grounds and he may be relieved from service at the earliest. In spite of the fact that the petitioner wanted retirement with immediate effect, his request was not considered by the authorities immediately. It was not considered even before the period of three months which is the period of notice prescribed under Regulation-29(1). It was incumbent on the authorities to consider the request immediately and decide whether the petitioner is entitled to voluntary retirement before the expiry of the period of three months. The authorities did not take any decision on Sub-Regulation-2, though this states that the notice of voluntary retirement shall require acceptance by the Appointing Authority. In the absence of any decision by the authority and absence of communication regarding any decision, the proviso under Sub-Regulation-2 of Regulation-29 will necessarily come into play. As per this proviso, if the authority is not granting any permission for retirement before expiry of the period specified in the notice retirement shall become effective from the date of expiry of the period. So far as the petitioner was concerned his

request was to exempt him from any notice and grant his request for voluntary retirement with immediate effect.

17. It has been argued by the Counsel for the Respondent that three months notice has not been given by the petitioner while seeking voluntary retirement and for this reason also the application is bad. However, even this contention is not seen take by the Respondent in the Counter Statement. The documents produced on behalf of the Respondent does not state also that the petitioner's request could not have been entertained in the absence of any specification regarding the period of notice. So far as the petitioner is concerned he was asking for voluntary retirement with immediate effect on health grounds and so it was a request for exemption from giving any notice at all. Even assuming that the application is one under Regulation-29(1) and three months notice has not been specified the Respondent could have treated period of three months from the date of receipt of notice as the period of notice and could have taken a decision within this period. In the absence of any decision on the part of the Respondent within the said three months, necessarily the proviso to Sub-Regulation-2 should come into play and the petitioner must be deemed to have retired from service on expiry of the said period.

18. There is of course the fact that the petitioner did not attend his duty after he sent Ext.M3 to the Respondent. It is on the basis of this it has been argued by the Counsel for the Respondent that it is a case of abandonment of service. If the wording in Sub-Regulation-3 of the Pension Regulations is accepted it cannot be treated as abandonment of service at all. Even assuming that the petitioner was not expected to stop attending duty before he received a communication regarding acceptance of his request of retirement or until expiry of three months period of notice, the action of the petitioner need not be treated as abandonment of service. It was a case where the petitioner under very extra-ordinary circumstances had made a request for voluntary retirement with immediate effect and there was no reason for him to suppose that his request would be rejected. The only restriction in accepting a voluntary retirement application before the expiry of the three months notice was whether it will cause any administrative inconvenience. In other respects it is a must that the same should be accepted. This is clear from the fact that an employee is precluded from withdrawing his notice except with the specific approval of the authority.

19. The counsel for the Respondent has been referring to the decision in VIJAY S. SATHYE VS. INDIAN AIRLINES LTD AND OTHERS reported in 2014 3 LLN 40 where the request for voluntary retirement was rejected as the employee had not given three months notice as provided and had failed to attend duty immediately after

submitting the application. The Apex Court had considered the case as one of abandonment from service and had refused to accede to the request of the employee in question who was a Pilot for voluntary retirement. The above case can be distinguished from the present case. The Pilot who had sought retirement was informed in writing that he should continue in service till the time decision is taken on his application. Apart from this, as per the regulation that was applicable, acceptance of resignation was subject to approval of the competent authority. The Apex Court has held that it is a settled legal proposition that if a statute provides for approval of the higher authority, the order cannot be given effect to unless it is approved and the same remains inconsequential and unenforceable. The Pension Regulations of the Respondent stand on a different footing. As per Regulation-29(1) any person who has completed 20 years of qualifying service was entitled to voluntary retirement on his applying with three months notice. In the absence of rejection of the application within the prescribed time, it is to be deemed that the retirement has come into effect after the period of notice.

20. In this respect the decisions relied upon by the counsel for the petitioner are relevant. In the decision in *DINESH CHANDRA SANGMA VS. STATE OF ASSAM AND OTHERS* reported in 1978 1 LLJ 17, a District Judge had sought retirement on the basis of the concerned rule and the same was allowed. Later, the order was cancelled and the Judge was asked to join duty. As per Fundamental Rule-56C which was applicable to the case, a Government Servant may by giving notice of not less than 3 months in writing to the appropriate authority retire from service after he has obtained the age of 50 years or has completed 25 years of service whichever is earlier. The Apex Court held that there was no question of acceptance of request for voluntary retirement by the Government when the Government Servant had exercised his right under FR 56C. There was automatic retirement in the case. In the present case also the petitioner having exercised his option under Regulation-29(1) and the competent authority having failed to accept the same the proviso has come into effect and the petitioner is to be deemed to have retired voluntarily in view of the refusal.

21. In the decision in *SUNDARESHWARALU VS. CENTRAL BANK OF INDIA AND OTHERS* reported in CDJ 2003 MHC 1165, the Madras High Court has held that the application seeking voluntary retirement having not been rejected by the appropriate authority, on expiry of three months period, it is to be deemed that the petitioner has retired from service. The High Court had directed the Central Bank to settle the terminal benefits of the petitioner. The period of the absence of the petitioner was directed to be treated as leave with or without pay.

22. In the light of the above legal pronouncements also it could be seen that the petitioner is to be deemed to have retired from service at least on expiry of three months after receipt of the request by the Respondent.

23. It has been argued by the Counsel for the Petitioner that even assuming that it was a case of unauthorized absence from duty on the part of the petitioner, the petitioner could not have been visited with a punishment more grave than compulsory retirement. It has been pointed out by the counsel that it was under very trying circumstances that the petitioner had to absent himself from duty. He had pointed out that the petitioner had stood guarantor for the loans of his Sons and his Sons were facing loss in their industry and the Respondent Bank as well as Private Lenders were running after him and his Sons for recovering the debt and he had taken the extreme step of leaving his locality. The counsel has referred to a decision of the Apex Court in *SHANKARDAS VS. UNION OF INDIA* reported in AIR 1985 SC 184 where it was held that family circumstances can be taken into account in deciding the measure of penalty to be imposed.

24. By the time the petitioner had given his request for voluntary retirement he had completed 34 years of service. He had claimed in the Claim Statement that it was a service of unblemished record. The Respondent has no case that the petitioner was guilty of any misconduct at any point of his career in the Bank. There is absolutely no complaint against the petitioner regarding his previous conduct. The only reason the Bank has given to reject the application for voluntary retirement (which according to it was communicated after expiry of the three months period) is that the petitioner was having several loans and he had made several borrowals outside the bank also. So far as the loan granted to the petitioner's Sons with him as the guarantor was concerned there was no necessity for the Bank to worry at all. It was not with the salary of the petitioner as Security that a loan was given to the Sons. On the other hand, the loan was well secured by the property of the petitioner. Even on the basis of assessment made by the bank as seen from Ext.M4 the loan arrears was ₹ 8.00 lakhs only while the property of the petitioner given as Security was worth ₹ 20.00 lakhs. So the employment of the petitioner and the loan arrears due to the bank should not have been connected.

25. Of course the petitioner has come forward with a dispute after several years. On this ground alone the claim of the petitioner could not be rejected. The petitioner has detailed and the Bank has also asserted the circumstances under which the petitioner has left the job and these are already referred to. In fact since the right of the petitioner for pensionary benefits has already become crystallized on account of the deemed acceptance of his application for voluntary retirement, this should not matter also. Even

then considering the long delay in raising the dispute and that also alongwith the failure of the petitioner to give any information to the Bank regarding his whereabouts the relief can be moulded.

26. Before concluding, a contention that has been raised by the Counsel for the Respondent at the stage of argument regarding the maintainability of the dispute is also to be referred to. It has been argued by the Counsel for the Respondent that it is not a case of termination of the petitioner from service but a case of his abandonment of service and therefore Section-11A of the Act is not applicable, the petitioner having not been discharged or dismissed from service. In answer to this, the counsel for the Petitioner has argued that the contention regarding maintainability of the dispute has not been taken by the Respondent at all in the Counter Statement. On the other hand, the Counsel for the Respondent argued that this stand of the counsel for the petitioner is incorrect. He also argued that in any case it is a question of law and can be agitated at any stage of the case even if it is not raised in the Counter Statement. Of course, the Respondent has stated in the Counter Statement that this is not a case of termination of employment but cessation of employment brought about by the conduct of the petitioner and therefore the petitioner is not entitled to challenge the termination. Thus, though not expressly stated that the dispute is not maintainable, there is somewhat vague contention to this effect in the Counter Statement. However, I do not think this contention on behalf of the Respondent could be accepted. I have already found that the petitioner must be deemed to have retired from service. In such a situation the respondent could not have treated the matter as cessation of service. It is in effect termination of service of the petitioner under the guise of cessation of service to deny terminal benefits to the petitioner. In this respect the counsel for the petitioner has referred to the decision in RAMASWAMY VS. THE MANAGEMENT OF WARWICK ESTATE reported in 2009 4 LLN 413 where the High Court has held that once workman approach the Labour Court challenging his non-employment it is incumbent on the part of Labour Court to find out whether his plea is justified or not. So in any case it was incumbent upon the Tribunal to consider the question whether it was abandonment of service or termination from service. As stated it is a case of termination under the guise of cessation of service. In fact it was not fair on the part of Respondent Bank to deny terminal benefits to the petitioner alleging cessation of service. The Respondent is an establishment having hundreds of branches all over India. The petitioner was a person who had served the Respondent for long 34 years. He was certainly entitled to the pensionary benefits which is a right he has accrued by the service of the Respondent for years together. The

Respondent should have been more considerate in its attitude towards the petitioner. I find that the Respondent has denied benefit to the petitioner under the guise of cessation from service.

27. Considering that the petitioner had raised the dispute with a lot of delay, the benefits payable to him until the day of his raising the dispute will be limited to 50%.

28. On the basis of my discussion above, an award is passed as follows:

- (i) The petitioner is deemed to have retired after three months of receipt of Ext.M3 by the Respondent.
- (ii) the Respondent shall pay 50% of the retirement benefits due to the petitioner from the date of retirement to the date of raising the dispute.
- (iii) the Respondent shall pay the entire retirement benefits due to the petitioner from the date of raising the dispute until the date of award.
- (iv) the amounts payable under heads (ii) and (iii) shall be paid within one month of the award in the absence of which interest will be payable @ 9% per annum.
- (v) The Respondent shall continue to pay pension to the petitioner from the date of the award.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri M. K. Narayanan
Petitioner

For the 2nd Party/ : MW1, Sri S. Balasubramanian
Management

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	08.06.2004	Letter issued by the Bank
Ex.W2	23.07.2004	Application for pension
Ex.W3	29.10.2004	Letter from the Bank
Ex.W4	16.12.2005	Letter from the petitioner
Ex.W5	16.07.2007	Certificate issued by the Bank
Ex.W6	07.09.2007	Letter from the petitioner
Ex.W7	15.12.2008	Letter from the petitioner

Ex.W8	04.06.2009	Letter issued by the Bank	Ex. M10	-	Petition under Provisional Insolvency Act – IP No. 2 of 1996.
Ex.W9	04.03.2010	Letter issued by the Bank			
On the Management's side					
Ex. No.	Date	Description	Ex. M11	-	Petition under Provisional Insolvency Act under I.P. No. 3 of 1996.
Ex. M1	22.12.1995	Communication from Bank – Coimbatore Main Branch to the Petitioner.	Ex. M12	26.02.1998	Letter from Mr. MR Sankaran, Manager, RO, Coimbatore addressed to AGM, RO, Coimbatore regarding the petitioner.
Ex. M2	13.12.1995	Letter from Mr. R. Kasthuri Ranga, Advocate, Coimbatore to the petitioner with copy to the Bank – Lr. Ref. No. LN/656/95.	Ex. M13	03.06.2004	Letter from petitioner to Regional Manager, Coimbatore.
Ex. M3	28.11.1995	Letter from petitioner to the Bank addressed to Central Office, Bombay through Coimbatore Main Branch submitting application for Voluntary Retirement on health grounds.	Ex. M14	19.03.2010	Letter from RO Coimbatore under reference RO/HRM-1155/2010 addressed to petitioner with postal receipt and postal acknowledgement with the signature of the petitioner enclosing copy of petitioner's letter dated 04.03.2010, 25.03.1996, 07.02.1996 and 12.01.1996.
Ex. M4	02.12.1995	Inter Office letter RO/PER/980 from Regional Office, Coimbatore to Zonal Office, Madras regarding the petitioner.	Ex. M15	26.07.2000	Letter from Ministry of Finance, Govt. of India under reference F.No. 4/8/7/99/IR addressed to Deputy Personnel Adviser, Indian Bank Association, Mumbai.
Ex. M5	29.12.1995	Inter Office letter bearing No. ZO/SZ1/BP/8884–Zonal Office, Madras to AGM, RO, Coimbatore regarding the petitioner.	Ex. M16	14.12.2011	Notice from ALC(C), Madurai addressed to Union Bank, Mumbai, enclosing copy of 2A petition dated 03.12.2011 of petitioner.
Ex. M6	25.03.2006	Memo from R.O., Coimbatore under reference RO/PER/1481 addressed to the petitioner.	Ex. M17	12.04.2012	Reply statement filed by petitioner before ALC(C), Chennai.
Ex. M7	-	The above cover sent to the petitioner to his residential address returned undelivered with endorsement “Party Left”–returned cover unopened and filed with postal Acknowledgement.	Ex. M18	23.08.2012	Conciliation Failure Report by ALC(C), Madurai.
Ex. M8	13.09.1996	Letter from Chief Manager under reference STF/595/96 addressed to the petitioner.	Ex. M19	15.02.2005	Letter from Coimbatore Main Branch under reference No. STF/654/05 addressed to the Petitioner regarding settlement of gratuity benefit by cheque for ₹ 2,14,047/- and crediting to his SB Account Number.
Ex. M9	25.05.2000	Letter from Chief Manager addressed to the petitioner regarding abandonment of service, settlement of terminal benefits etc. STF/315/2000.			

Ex. M20 03.08.2004 Inter Office letter from RO, Coimbatore to Chief Manager, Coimbatore Main Branch under reference RO/HRM/568/2004 – releasing terminal benefits to the petitioner ₹ 1,49,318.02 towards his PF with request to credit the proceeds to petitioner's SB Account and copy cheque No. "294557" dated 16.07.2003.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 120/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/44/2002-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 120/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of the Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12012/44/2002-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT:

RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 120/2002

Ref. No. L-12012/44/2002-IR(B-II) Dated: 07.07.2002

BETWEEN:

Shri Santosh Kumar Yadav
C.K. 63/48, Chhoti Piari
Varanasi (U.P.) – 221 001

AND

The Zonal Manager
Bank of India
Varanasi Zone Plaza Complex,
Bhelupura Varanasi (U.P.) – 221 001

AWARD

1. By order No. L-12012/44/2002-IR(B-II) Dated: 07.07.2002 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Santosh Kumar Yadav, C.K. 63/48, Chhoti Piari, Varanasi (U.P.) and the Zonal Manager, Bank of India, Varanasi Zone Plaza Complex, Bhelupura, Varanasi (U.P.) to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF BANK OF INDIA IN TERMINATING THEIR SERVICES OF SHRI SANTOSH KUMAR YADAV W.E.F. 3.9.2001 IS LEGAL AND JUSTIFIED. IF NOT, WHAT RELIEF IS HE ENTITLED FOR?”

3. The case of the workman, Shri Santosh Kumar Yadav, in brief, is that he was engaged by the opposite party bank in the year 1994 as sub-staff whose services have been terminated by the Bank orally on 03.09.2001. It has been submitted by the workman that he worked for more than 240 days in a block of twelve months continuously even then the Bank terminated his services without any notice or notice pay in lieu thereof, thereby violating the provisions of Section 25 F of the Industrial Disputes Act, 1947. Accordingly the workman has prayed that his termination be set aside and the management of the Bank be directed to reinstate the workman with all consequential benefits including full back wages.

4. Per contra, the management of the Bank of India has disputed the claim of the workman through its written statement wherein it has submitted that there is prescribed procedure for appointment in the bank and the claimant had never gone through the selection process, as such, he was never appointed by the bank at any point of time. It is submitted by the bank that whenever required, casual labours are hired from open market on daily wage basis and are paid accordingly; hence they could not be called the employees of the bank. The bank has denied continuous working of the said workman and has also denied his termination or violation of the any of the provisions of the Industrial Disputes Act, 1947. Accordingly, the management of the Bank has prayed that the claim of the workman be rejected without any relief to him.

5. The workman has filed the rejoinder whereby he has only reiterated his averments in the statement of claim and has not introduced any new fact.

6. After submission of documentary evidence in support of their respective cases by the parties, the workman examined himself and Shri Narayan Singh; whereas the management adduced evidence of Shri Dudh Lal Ram to corroborate their pleadings. The parties availed opportunity to cross-examine the witnesses of each other. After conclusion of parties' evidence, the case was fixed for arguments of the parties on merits, when the workman moved an application W-57 regarding closure of the case.

7. The workman in the application W-57, mentioned that the workmen's Union has entered into a settlement dated 25.06.2013 with the opposite party before the Regional Labour Commissioner (Central), Mumbai; whereby the opposite party has included him, in the selection procedure and has declared him successful for appointment in the Bank's services. It was stated by the workman that in view of the settlement, he is not willing to contest the present industrial dispute anymore; and prayed that the case may be disposed of accordingly. It is also mentioned in the application stated by the workman.

8. Heard workman and perused the application W-57, accompanied with the settlement dated 25.06.2013.

9. The workman in its application W-57 has stated that a settlement dated 25.06.2013 has been arrived between the Union of the workmen and the Bank; and in accordance thereto the workman has undergone regular selection procedure and is declared successful for appointment in the services of the Bank. The workman has stated that in view of the settlement, there is no need to proceed with the present industrial dispute and accordingly, has expressed its willingness not to contest the present dispute with prayer to dispose of the same accordingly.

10. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the action of the management and if no evidence is produced the party invoking jurisdiction of the Court must fail. In the instant case the burden was on the workman to prove that the action of the management of Bank of India in terminating the services of the workman was illegal and unjustified. The stand of the workman was denied by the management of the bank and the parties adduced oral evidence too in support of their rival pleadings; but before submission of their final arguments on merit, the workman has come forward with application, W-57, stating therein that since his grievances have got redressed by the opposite party consequent to settlement dated 25.06.213, therefore, he

does not want to contest the present industrial dispute and wants the closure of the same. Accordingly, there is no need to proceed with the present industrial dispute, as grievances of the workmen stand redressed. Thus, the workman has prayed to pass suitable orders.

11. Although provisions of withdrawal of suits under Order 23 Rule 1 CPC are not applicable in the matter of reference under Section 10 of ID Act but, in view of the submission of the workman for withdrawal of the case, there is no grievance left with the workman. Resultantly, no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

12. Award as above.

LUCKNOW.

08th October, 2014.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 114/11) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/56/2011-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 114/11) of the Central Government Industrial Tribunal-Cum-Labour Court, Delhi as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 10/11/2014.

[No. L-12011/56/2011-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, KARKARDOOMA COURT
COMPLEX,
DELHI 110 032**

Present:

Shri HARBANSH KUMAR SAXENA

ID No. 114/11

Smt. Shashi Kakkar
The General Secy.
All India Bank Staff Association,
33-34, Bank Enclave , Ring Road

Versus

The Branch Manager
SBI, DMS, Shadipur Branch,
New Delhi-110008

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-12011/56/2011-IR(B-1)) dated 01.12.2011 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of State Bank of India, DMS Shadipur Branch, New Delhi in denying payment of the lumpsum Ex-gratia amount under the SBI Scheme of ‘Payment of Ex-Gratia lumpsum Amount in lieu of Compassionate Appointment to Smt. Shashi Kakkar W/o late Sh. Ish Kumar Kakkar, Sr. Assistant , who died while in service on 01.06.2005, only on the ground of delayed application , is legal and justified? To what relief the Union/Smt. Shashi Kakkar is entitled?”

On 19.12.2011 reference was received in this tribunal. Which was register as I.D No. 114/2011 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parties can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated:-18/09/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या

11/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/10/2014 को प्राप्त हुआ था।

[सं. एल-41011/113/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2014) of the Central Government Industrial Tribunal-Cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of the Western Railway and their workmen, received by the Central Government on 21/10/2014.

[No.L-41011/113/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 11 of 2014

Parties: Employers in relation to the management of Western Railway

AND

Their workmen.

Present: Justice DIPAK SAHA RAY, Presiding Officer

Appearance:

On behalf of the Management : None.

On behalf of the Workmen : None.

State: West Bengal.

Industry: Railway.

Dated: 17th October, 2014.

AWARD

By Order No.L-41011/113/2013-IR(B-I) dated 12.02.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the demand of the union to give the benefits of finally pension, gratuity, leave encashment, fund, workmen compensation and to give service to the son of Shri Parvat Chandra in Railway is legal proper and just? If so, to what relief the concerned workman is entitled to?”

2. When the case was taken up on 15.10.2014, none appeared on behalf of either of the parties. It appears from the record that none of the parties to the present dispute ever appeared before this Tribunal nor they have taken any step to proceed with this reference inspite of service of notice and inspite of specific order of the Tribunal on the last date viz. 14.08.2014.

3. Considering the above facts and circumstances, it appears that the parties to the present reference are not at all interested to proceed with the case further. So, no useful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
The 17th October, 2014.

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लक्ष्मी विलास बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 60/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/09/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 60/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the management of the Lakshmi Vilas Bank Ltd. and their workmen, received by the Central Government on 10/11/2014.

[No. L-12012/09/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT CHENNAI

Wednesday, the 29th October, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 60/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Lakshmi Vilas Bank and their workman)

BETWEEN:

Shri P. Ramachandran : 1st Party/Petitioner

AND

The General Manager/HR : 2nd Party Respondent
Lakshmi Vilas Bank Ltd.
Administrative Office,
Salem Road, Kathapara
Karur-639006

Appearance:

For the 1st Party/ : M/s. K.M. Ramesh, Advocates
Petitioner

For the 2nd Party/ : M/s. T. R. Sathiyamohan, Advocates
Management

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/09/2013-IR(B-I) dated 28.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Lakshmi Vilas Bank in imposing the punishment of dismissal without notice on Sri Ramachandran, Clerk is legal and justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID 60/2013 and issued notices to both sides. Both sides entered appearance through their counsel and filed their Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the counter statement filed by the Respondent.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner had joined the service of the Respondent Bank as Clerk in 1980. During the year 2005 the petitioner was working in Kathampara branch, Karur. While working so, the petitioner was placed under suspension by proceedings dated 19.06.2010. The petitioner was issued with a charge sheet on 20.07.2010. In the charge sheet it was alleged that the petitioner had pre-closed a deposit of one Mangayarselvi and credited ₹ 7500/- being government subsidy to the account of one Manikandan, a Sub-Staff of Papanad branch of the

Respondent Bank on 04.07.2009. The petitioner is said to have done this by misusing the password of the Manager who was on leave, without his knowledge. The petitioner is said to have defrauded the bank by misappropriating the govt. subsidy by his above act. Though the petitioner has given reply to the charge sheet denying the allegation, it was not accepted and an enquiry was conducted against the petitioner. The enquiry which was commenced on 30.10.2010 was concluded on the same day. The petitioner was not given opportunity to defend his case. The Enquiry Officer gave a report finding the petitioner guilty of the charges. On the basis of the report, the punishment of dismissal without notice was imposed on the petitioner by the Disciplinary Authority. The finding of the Enquiry Officer is perverse and is bad in law. The punishment imposed on the petitioner is illegal and unjustified. An order may be passed holding that the action of the Respondent in imposing the punishment of dismissal without notice on the petitioner is illegal and unjustified and directing the Respondent to reinstate the petitioner in service.

4. The Respondent has filed Counter Statement contending as follows :

The petitioner who was working as Clerk in Kathamparai branch of the Respondent Bank was suspended from service from 19.06.2010 consequent to certain acts of misconduct on his part. A charge sheet was issued to him subsequently, regarding the misconduct committed by him. One Mangayarselvi had availed loan of ₹ 1,50,000/- on 23.12.2003 with govt. subsidy of ₹ 75,00/- and the same was kept in fixed deposit. The account became non-performing asset and was closed on 21.04.2009 without adjusting the subsidy in deposit. On 04.07.2009, the petitioner had pre-closed the deposit which was due on 04.06.2010 and had fraudulently credited it to the account of Manikandan, Sub-Staff of Papanad branch. The entries were originated using the Teller Id of the petitioner and authorized using the password of the Manager without his knowledge. In the explanation given by the petitioner to the Charge Sheet, he had admitted having committed the misconduct. The claim that he had done so by mistake is an afterthought. The explanation submitted by the petitioner was not satisfactory and a departmental enquiry was contemplated. The petitioner was given full opportunity to defend himself. On conclusion of the enquiry, Enquiry Officer has found the petitioner guilty of the charges leveled against him. A show cause memo was issued to him affording a personal hearing and the Disciplinary Authority had passed a final order considering all the material factors, imposing the punishment of removal from service, with immediate effect on the petitioner. The appeal preferred by the petitioner to

the appellate authority has been rejected. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating the case in the Claim Statement.

6. Though in the Claim Statement and in the Rejoinder, the petitioner has raised a contention that Enquiry was not conducted in a fair and proper manner, this contention has been given up by him before the trial was started. The counsel has made endorsement to this effect.

7. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to W8 and Ext.M1 to M18.

8. The points for consideration are:

- (i) Whether the action of the Respondent bank in imposing the punishment of dismissal without notice on the petitioner is legal and justified?
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

9. The petitioner who had started to work as a Clerk in the Respondent Bank in the year 1980 was working in Kathamparai Branch at the time of the alleged incident. The incident relates to pre-closing the subsidy amount due to an account holder kept in fixed deposit. The allegation is that on 04.07.2009 the petitioner had pre-closed this deposit fraudulently and credited it to the account of one Manikandan who had been a Sub-Staff of another branch of the Respondent Bank. The entries regarding the transaction were allegedly made by the petitioner using his teller id and misusing the password of the Manager.

10. In the explanation submitted by him to the Charge Sheet and marked as Ext.M2 the petitioner has not denied to have pre-closed the fixed deposit and credited to the account of Manikandan. He has also not denied the allegation that he has used the password of the Manager who was on leave on the particular day. The petitioner stated in his explanation that it was common at Kathamparai Branch to use the password of the Manager by other officials and staffs whenever the Manager was out for any other work. According to the petitioner on 04.07.2009, the day in question while he was very busy at the counter Sub-Staff Manikandan of Papanad Branch had called him over phone and had requested him to send ₹ 10,000/- immediately. Having sufficient balance in his savings account he had obliged Manikandan. However, when he was about to pass entries for ₹ 7,500/- from his savings

account by oversight he had made a wrong entry and debited deposit amount related to the loan account. According to him when he came to know of the mistake he had telephoned Manikandan and Manikandan had remitted the sum to the credit of Kathamparai Branch. According to the petitioner, he had not committed the act intentionally or deliberately. Immediately on realizing the wrong entry he had made the beneficiary remit the amount.

11. In the enquiry proceedings, the officer who had enquired into the irregularities committed by Sub-Staff Manikandan, the then Manager of the Kathapara Branch and the subsequent Manager of the Branch were examined. It could be seen from the evidence by MW1 that the incident which is the subject matter of the dispute was revealed while enquiring into the misconduct of Manikandan. The report given by MW1 regarding Manikandan has been marked in the enquiry proceedings. The witness has stated that during enquiry the transaction in respect of ₹ 7,500/- received at the account of Manikandan from Kathapara branch on 04.07.2009 was noticed and it was also found that the transaction pertains to closure of proceeds of PMRY Subsidy Deposit of one Mangayarselvi.

12. There is also the evidence given by MW2, the Branch Manager. On 22.06.2010 the Manager has written to the HRD Department regarding the closure of subsidy deposit in the name of Mangayarselvi and transfer of the amount to the account of Manikandan. MW2 has stated that the entry was authorized with his own password while he was on leave. He stated that he has not given his password to the petitioner. He stated that he came to know of the missing of the FD Receipt only after investigation by MW1.

13. MW3 was examined to prove the related documents pertaining to the incident. The document regarding the fixed deposit, the loan ledger extract pertaining to the term loan of Mangayarselvi and the statement of account of Mangayarselvi were marked through this witness. The Teller Transaction Report on the particular date and also the copy of the letter given by the petitioner on 05.06.2010 are also proved through this witness. As already stated it is not disputed by the petitioner that he is the one who had pre-closed the deposit and credited the amount to the account of Manikandan. The duty of the two Managers through their evidence was only to assert this case. The defence put forth by the petitioner is that it was by way of mistake the transaction was made by him. What he has stated is that Manikandan had asked him a loan of ₹ 10,000/- and he had obliged since he has sufficient balance in his account. According to him inadvertently, rather than debiting from his own account he had pre-closed the fixed deposit and credited to the account of Manikandan. He

has stated that his innocence will be proved by the fact that he has remitted back the amount immediately.

14. Though it was claimed in the explanation given by the petitioner to the Charge Sheet itself that he has remitted back the amount, the petitioner has conspicuously omitted to give the date on which the remittance was made. During his argument, the counsel for the petitioner has stated that the remittance was made within two hours. However, I do not find from any of the documents produced that the amount was remitted back within two hours after the transaction was entered into by the petitioner. In the written argument of defense submitted on behalf of the petitioner before the Enquiry Officer the case is that the amount was remitted back within 21 days. But one does not know to which date this 21 days relates to, whether from the date of the transaction or from the date of enquiry report by MW1. In the written arguments filed on behalf of the Respondent it is stated that only after a year of the Investigating Officer detecting the illegal transfer the amount has been remitted. This statement certainly reveals that the amount has been remitted, but only after the misconduct was detected by MW1 while inquiring into the misconduct of Manikandan.

15. Is it possible that the petitioner by inadvertence committed the mistake of pre-closing the fixed deposit and remitting the amount to the account of Manikandan rather than debiting his own account and crediting to the account of Manikandan? Even according to the petitioner the demand by Manikandan was for ₹ 10,000/-. According to him he had sufficient balance in his account also. If so, the petitioner would have been crediting ₹ 10,000/- itself to the account of Manikandan rather than a lesser amount. It is difficult to accept the case given by the petitioner in his explanation that it was by mistake he had pre-closed a fixed deposit in the name of Mangayarselvi. The subsidy was payable only on 04.06.2010 and that is why it was put in fixed deposit. In the meanwhile the account of Mangayarselvi had become non-performing asset and it was closed. It was in such a situation the petitioner had pre-closed the deposit on 04.07.2009 and credited it to the account of Manikandan. Pre-closing of a fixed deposit is a transaction quite different from debiting a subsisting account and transferring the amount to another account. This would not have happened by inadvertence. Again it is unlikely that the petitioner would not have noticed the mistake at least within a few days, if it was actually a mistake. His case is that he was under the impression that his own account was debited for crediting to the account of Manikandan. If this is a case, during the next transaction pertaining to his own account he would have noticed the same. Manikandan who received the amount would have informed him also. However, he had waited until the

incident was disclosed through the enquiry report of MW1 to remit the amount. So it is difficult to believe the case of the petitioner that it was a mistake on his part.

16. There is also the fact that the petitioner had admittedly used the password of the Manager to authorize the entry. MW2, the Manager has stated that he has not revealed the password to the petitioner. The case of the petitioner himself is that the branch was in the habit of using the password of the Manager in his absence. It is not denied that the Manager was on leave on the particular date. There is the evidence given by the Manager that there are other Officers who are empowered to authorize the entries. While the Manager was on leave no one could be expected to use his password with or without his permission. When on leave the Manager does not have any power to authorize the transaction. There would have been other Officers who were empowered to do so. So it is clear that the petitioner was unauthorizedly using the password of the Manager. The case of inadvertent mistake advanced by the petitioner could not be accepted at all.

17. The counsel for the petitioner has argued that except on sufficient and reliable proof one should not be found guilty especially when the misconduct alleged is criminal in nature. The counsel has referred to the decision of the Madras High Court in VINCENT VS. THE DIRECTOR OF GOVERNMENT EXAMINATIONS AND ANOTHER in Writ Appeal No. 320/79 in this respect. However, here it is not a case where there is no reliable proof regarding the guilt of the petitioner. The Enquiry Officer had every justification for finding the petitioner guilty.

18. The punishment of dismissal without notice was imposed on the petitioner by the Disciplinary Authority. It has been pointed out that the petitioner had been working for more than 30 years and there was no allegation of misconduct against him earlier. When this fact is taken into account, I feel that the punishment is not in proportion to the gravity of the offence committed. The punishment of Compulsory Retirement from service would meet the ends of justice.

19. Based on the discussion above, an award is passed as follows:

The punishment imposed on the petitioner is modified to one of Compulsory Retirement from service.

20. The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Ramachandran

For the 2nd Party/Management : None

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	19.06.2010	Xerox copy of the proceedings of the Disciplinary Authority
Ex.W2	09.08.2010	Xerox copy of the reply submitted by the petitioner to the charge sheet
Ex.W3	05.10.2010	Xerox copy of letter from Disciplinary Authority appointing Enquiry Officer
Ex.W4	15.10.2010	Xerox copy of letter from Enquiry Officer to the petitioner
Ex.W5	23.10.2010	Xerox copy of letter from Enquiry Officer to the petitioner
Ex.W6	23.10.2010	Xerox copy of defence written argument submitted by the petitioner to the Enquiry Officer
Ex.W7	24.02.2011	Xerox copy of the proceedings of the Disciplinary Authority
Ex.W8	02.03.2011	Xerox copy of the minutes of the personal hearing before the Disciplinary Authority

On the Management's side

Ex.No.	Date	Description
Ex.M1	20.07.2010	Charge Sheet filed by the Respondent
Ex.M2	09.08.2010	Explanation to the Charge Sheet
Ex.M3	05.06.2010	Exhibit M.1 filed by the Respondent in the domestic Enquiry
Ex.M4	04.07.2009	Exhibit M.2 filed by the Respondent in the domestic Enquiry
Ex.M5	-	Exhibit M.3 filed by the Respondent in the domestic Enquiry
Ex.M6	-	Exhibit M.4 filed by the Respondent in the domestic Enquiry
Ex.M7	-	Exhibit M.5 filed by the Respondent in the domestic Enquiry
Ex.M8	23.10.2003	Exhibit M.6 filed by the Respondent in the domestic enquiry

Ex.M9	05.06.2010	Exhibit M.7 filed by the Respondent in the domestic Enquiry
Ex.M10	-	Exhibit M.8 filed by the Respondent in the domestic Enquiry
Ex.M11	22.06.2010	Letter issued by the Manager to the Deputy General Manager
Ex.M12	20.07.2010	Proceedings of the domestic enquiry
Ex.M13	20.07.2010	Findings of the Enquiry Officer
Ex.M14	29.03.2011	Proceedings of the Disciplinary Authority issued to the petitioner
Ex.M15	28.04.2011	Appeal petition filed by the petitioner before the Appellate Authority
Ex.M16	14.06.2012	Proceedings of the Appellate Authority
Ex.M17	17.08.2012	Petition filed by the petitioner before the Conciliation Officer
Ex.M18	12/2012	Counter filed by the Respondent before the Conciliation Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2962.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 4/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.10.2014 को प्राप्त हुआ था।

[सं. एल-41011/40/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 4/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the management of the Central Railway and their workman, which was received by the Central Government on 17.10.2014.

[No. L-41011/40/2007-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE.

Reference (IT) No. 04 of 2009

Between :

The Divisional Railway Manager
Central Railway,
PUNE ...First Party

And

The Secretary
Rail Kamgar Sena,
C/o Central Railway,
PUNE ...Second Party

CORAM : D. H. DESHMUKH, Presiding Officer

Appearances :

Shri S. D. Uplenchwar, Advocate for First Party.

Smt. Sheetal Lokhande, Advocate for Second Party.

AWARD

Date : 11-09-2014

This is a reference made by Government of India, Ministry of Labour, New Delhi. The dispute/demand referred is as follows :-

“Whether the action of management of Central Railway, Pune in not giving promotion to Shri Babu Ballappa w.e.f. 28-8-1989, is legal and correct ? If not, what relief the concerned workman is entitled to ?

Initially the reference was made to the Labour Court, Pune. By subsequent order, it has been transferred to this Tribunal.

2. The second party union has contended that it is a registered trade union, representing the employees of the first party railway, and Shri Babu Balappa (concerned employee) was employed on daily wage basis from 17-10-1972, and was regularized in service w.e.f. 21-7-1980. He was granted status of a permanent employee on or about 28-8-1980. The concerned workman was working as a Khalasi under CIOW (M) Pune, but was redesignated as a Gangman, and transferred to PWI (M) Talegaon in public interest by order dt.15-9-1986 passed AEM (M), Pune who is appointing authority. The said authority maintains combined seniority list of the employees. The concerned workman was then transferred to CDF, Lonavala as a Khalasi for short period, and then transferred again to IOW Pune w.e.f. 25-2-1995 on administrative ground. The concerned workman continued to hold the same position in the seniority list. He passed trade test for skilled Artisan i.e. Fitter Grade III in 1989. The claim of the concerned workman for

promotion, was neglected on a lame excuse that he belongs to PWI. Juniors were promoted.

3. The concerned workman approached the administration of the first party for grant of seniority, and promotion, and thereafter, approached the Assistant Labour Commissioner through union. There, it was agreed to grant seniority w.e.f. 16-4-1986. Therefore, the case of seniority was closed on 19-9-2001. The benefit of seniority was granted from 16-4-1986, but he was not granted promotion to the next grade on par with his junior. It is contended that the trade test is conducted, only if there is a vacancy. The concerned workman was the senior most, and was therefore, trade tested in which he succeeded. The Labour Commissioner office directed the first party to consider the case of the concerned workman etc. The contention of the second party is that there was vacancy. The concerned workman passed trade test, and he was senior-most, and therefore, should have been promoted as Fitter Grade III w.e.f. 28-8-1989, when he passed the test. The concerned workman wants promotion, and consequential benefits from that date.

4. The first party was noticed. The first party appeared, and filed say Exh.C-4, denying the adverse allegations and the claim. According to the first party, the union cannot make claim on behalf of the individual employee. The claim is to be filed before Central Administrative Tribunal. This Tribunal has no jurisdiction. Then it is contended that the trade test was conducted on 17-3-1998, and the result was declared on 24-8-1998, and therefore, the present reference is time barred. It is contended that there is no ground to neglect the promotion, and side track the concerned workman without any reason. No juniors have been promoted. The claim made is not legal and valid etc.

5. The issues and my findings thereon, are as follows :-

ISSUES	FINDINGS
1. Whether the Tribunal has got jurisdiction to adjudicate the demand ?	...Yes.
2. Whether the action of not giving promotion to the concerned workman is legal & correct ?	...No.
3. What relief/award ?	...As per final award.

REASONS

6. For last several days, the first party has been absent. The second party has filed affidavit by way of evidence, and also documents, which are totally unchallenged. The affidavit of the concerned workman indicates that he passed the trade test in 1989. There was common seniority list maintained. His seniority was side tracked,

and his juniors Shri Chandrapal Kartar Singh and Shri Bhimrao Dayanand Patole were promoted without passing the trade test as required by the rules. The concerned workman approached the railway authorities, but no heed was paid. The first party agreed before Assistant Commissioner of Labour to give proper seniority, and therefore that, case was closed. Even after that, the concerned workman was not considered for promotion. The dispute was reheard by Regional Labour Commissioner. The first party tried to evade the responsibility by remaining absent etc. In the affidavit, all the necessary details are stated. The concerned workman has stated that his age of retirement is drawing near. He passed Trade Test in 1989, and was therefore, entitled to benefits at that time.

7. The documents produced support the contentions of the second party. The documents produced are not disputed by the first party. The documents include letter dt.4-9-2001 of the first party, in which it is conceded that the concerned workman is entitled to the seniority as a Khalasi w.e.f. 16-6-86. Internal correspondence like letter dt.6-3-2003, indicates that even according to the officer of the first party, immediate promotion was required to be given to the concerned workman. Another letter dt.2-11-2004 of Shri A. K. Jain of the first party indicates that according to the City Officer, seniority of the concerned workman will be with effect from the date of appointment i.e. 28-8-1980, and further that he had passed Trade Test in 1989. There is a letter dt.6-2-2006 from Regional Labour Commissioner of Pune to Divisional Railway Manager, in which certain facts are stated. The letter indicates that the Trade Test was passed in the year 1989. Further with great efforts, and after sufficient delay, the railway accepted the seniority w.e.f. 16-4-86. Further, part of the letter indicates that the seniority list should be from 21-7-1980. The Labour Commissioner also mentioned that the management of the first party was not taking the matter seriously, but was creating confusion against the concerned workman, which is not healthy for good relationship with the workers etc.

8. The record of Trade Test is also produced. The matter is more than 5 years old. There is no point in adjourning the matter further. I have gone through the record, and have heard the learned counsel for the second party. The appropriate Government can refer the dispute pertaining to promotion to this Tribunal, and therefore, the question of want of jurisdiction does not arise. The department of first party is industry, and the second party is clearly a workman, and therefore, Tribunal has jurisdiction. The existence of Central Administrative Tribunal is no bar to raise the dispute. Industrial dispute could be raised by a union also, and therefore, objection in that regard is also not proper. From the unchallenged material on record, I find that the concerned workman is

entitled to be promoted w.e.f. 28-8-1989, since he was senior-most and had passed the Trade Test. At least, two juniors were promoted. The concerned workman is entitled to be promoted as Fitter Grade III since 1989. The demand is justified.

AWARD

The first party i.e. Divisional Railway Manager, Central Railway, Pune, shall promote the concerned workman Shri Babu Ballappa as Fitter Grade III w.e.f. 28-8-1989, and shall grant him all consequential benefits arising out of promotion, including the monetary benefits.

D. H. DESHMUKH, Presiding Officer

Date : 11-09-2014.

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 70/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/77/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/77/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 70 of 2012 . Reference No. L-40012/77/2012/IR(DU) dated 7.01.2013

Shri Mohan Singh
son of Shri Makhn Singh,
resident of Village Lakhmire Uttar,
PO Mamdoot,
Tehsil & district Ferozepur.

...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur.

...Respondent

Appearances:

For the Workman : None.

For the Management : Sh. Anish Babbar.

AWARD

Passed On:-07.11.2014

Government of India, Ministry of Labour vide notification No. L-40012/77/2012/IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the demand of Shri Mohan Singh son of Shri Makhn Singh against the General Manager/DET/SDE, BSNL, Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter?”

2. Case repeated called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.

07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2964.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 69/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/78/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (I.D. No. 69/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/78/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-I,
CHANDIGARH.**

Case No. ID 69 of 2012 . Reference No. L-40012/78/2012/IR(DU) dated 7.01.2013

Shri Pritpal Singh
son of Shri Bakhshish Singh,
resident of Village Dilla Ram,
PO Jhok,

Tehsil & district Ferozepur. ...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur.

...Respondent

Appearances:

For the Workman : None.

For the Management : Sh. Anish Babbar.

AWARD

Passed On:-07.11.2014

Government of India Ministry of Labour vide notification No. L-40012/78/2012/IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the demand of Shri Pritpal Singh son of Shri Bakhshish Singh against the General Manager/DET/SDE, BSNL, Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter?”

2. Case repeatedly called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above, the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.

07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2965.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय भूवैज्ञानिक सर्वेक्षण के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 14/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/99/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 14/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Geological Survey of India and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/99/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW**

PRESENT:

SHRI RAKESH KUMAR, Presiding Officer

I.D. NO. 14/2013

Ref. No. L-42011/99/2012-IR(DU) dated: 22.02.2013

BETWEEN :

The General Secretary
Geological Survey of India Employed
Nav-Nhetana Association, 466/202-201
Primerose House Peer Bukhara,
PO Chowk Lucknow - 226 001 .

AND

The Deputy - Director General & Head of Office
Geological Survey of India
Northern region, Sector - E
Aliganj Complex Lucknow.

AWARD

1. By order No. L-42011/99/2012-IR(DU) dated: 22.02.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General secretary, Geological Survey of India Employed, Nav-Chetana Association, 466/202-201, Primerose House Peer Bukhara, PO Chowk, Lucknow and the Deputy-Director General & Head of Office, Geological Survey of India, Northern region, Sector-E, Aliganj Complex, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication

2. The reference under adjudication is:

"WHETHER THE DEMAND OF GEOLOGICAL SURVEY OF INDIA EMPLOYEES NAV-CHETNA ASSOCIATION, LUCKNOW OVER NON-IMPLEMENTATION OF DEMAND POINTS NO. 01,2,7,10,11,19 AND 22 MENTIONED IN THE STRIKE NOTICE TO THE MANAGEMENT OF GEOLOGICAL SURVEY OF INDIA, NORTHERN REGION, LUCKNOW IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE ASSOCIATION IS ENTITLED TO?"

3. The order of reference was endorsed to the General Secretary, Geological survey of India Employed, Nav-Nhetana Association, 466/202-201, Primerose House, Peer Bukhara, PO Chowk, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 12.03.2013 by the Hon'ble Presiding Officer and the office was directed to issue registered notice to the workman' union for filing the statement of claim with list of reliance & list of witnesses on 12.04.2013. On the date fixed i.e. 12.04.2013 the General Secretary of the union, Shri S.A.H. Rizvi was present; but no statement of claim together with documents etc. was filed; accordingly, next date 21.05.2013 was fixed for filing of statement of claim. The Union remained absent on 21.05.2013 as well as on subsequent dates i.e. 16.07.2013, 30.08.2013, 30.10.2013, 15.12.2013, 28.01.2014, 25.03.2014, 25.03.2014, 20.05.2014, 14.08.2014 and

02.10.2014. The union neither turned up on any of the aforementioned dates nor moved any application or adjournment seeking time to file the statement of claim. More than a year's time has passed and the workman's union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman's union to contest the case.

5. In the above circumstances, it appears that the workman's union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workmen's union. Resultantly no relief is required to be given to the workmen concerned. The reference under adjudication is answered accordingly.

6. Award as above.

Lucknow

30th October, 2014

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2966.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, हिन्दुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ डिवीजन और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 70/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42025/03/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Hindustan Aeronautics Ltd., Lucknow Division & Others and their workman, which was received by the Central Government on 14/11/2014.

[No.L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW****PRESENT:**

RAKESH KUMAR, Presiding Officer

I.D. No 70/2011**BETWEEN:**

Sri Mansuri Singh
S/o Sh. Mahaveer Singh
R/o Ismailganj, Post Chinhath
Faizabad Road, Lucknow

AND

1. General Manager,
Hindustan Aeronautics Ltd.,
Lucknow Division, Lucknow
2. M/s. Shah Bandhu,
Sri Yogendra Prasad Shah,
Sanitation Contractor,
504 Viman Nagar,
GT Road,
Harendra Nagar,
Kanpur
3. M/s. Group-4 Facilities Service
Sri Nawal Kapoor,
Director Personnel,
1/97, Vidyut Khand Gomti Nagar,
Lucknow

AWARD

1. Applicant Sh. Mansuri Singh has submitted a claim statement dated 28.02.2011 before this Tribunal, stating therein that Hindustan Aeronautics Limited, Lucknow Division is an engineering industry and factory as well registered under the provisions of the Factories Act. The Government had issued a notification dtd. 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. The applicant has stated in the claim statement that Hindustan Aeronautics Ltd. employed the contract labour for sanitation of the factory premises. The sanitation work is perennial and regular nature of job. It has been emphasized that the workman/applicant was working in establishment right from the very beginning i.e. from the date when the factory was established and was continuously in job till the date of illegal termination.
2. It is asserted that during the said period the sanitation work was assigned to several contractors but the services of the applicant workman was

continuous and never interrupted. The applicant continuously worked in establishment of the Hindustan Aeronautics Ltd., Lucknow he was directly employed by the HAL, Lucknow. He neither employed by any contractor nor his services have been terminated by the contractor. It has also been pointed out in the claim statement that regular deductions viz Provident Fund and Employees State Insurance were made from salary of the applicant. Moreover the privileges of the Earned Leave, Casual Leave, Medical Leave etc. were also provided to him directly by the principal employer viz. Hindustan Aeronautics Ltd., Lucknow. The applicant states that although there was prohibition to employ contract labour in pursuance of the notification dated 24.04.1990 to contract labour yet the employers awarded the contract of sanitation work while it should have been entrusted to the regular employees. The act of the HAL is totally illegal and unjustified. The Government of India has prohibited to employ contractors for sanitation work of the building premises of the establishment.

3. It has also been mentioned that applicant workman was entitled to get same pay and allowances as were given to other regular employees of the HAL, Lucknow. HAL Karamchari Sabha (the Union) had moved an application against the illegal and unjustified act of the employer under Rule 25(2) (V) (b) of Contract Labour (Regulation & Abolition) Central Rules 1971 which was considered by the RLC(C), Lucknow and he gave direction on 28.04.1989 to pay the similar pay and wages etc. which were being paid to other regular employees. Thereafter the employer had filed writ petition before Hon'ble High Court challenging the directions given by the RLC(C) Lucknow but the writ petition was dismissed by Hon'ble High Court vide judgment dated 28.01.1994 and order passed by RLC(C), Lucknow was confirmed. The workman has stressed that being aggrieved by the judgment dtd. 28.01.1994 passed by Hon'ble High Court, the employer preferred a Special Leave Petition before the Hon'ble Supreme Court which was also dismissed and thereafter the employer filed a review petition and the same was also dismissed by the Hon'ble Supreme Court. Thereafter, the employer started to pay the Basic Pay, D.A. and CCA at par with the unskilled employees but HRA and annual increments were not being provided. The workman union preferred the case under the provisions of the U. P. Industrial Peace (Timely Payment of Wages) Act, 1978, thereafter a recovery certificate was issued against the employers.

4. The applicant has further stated that in pursuance of mutual settlement the employers enhanced the pay of the directly employed unskilled workers from ₹ 1880/- to ₹ 3000/- but the workers who were shown to be

employed through contractor were being paid ₹ 1880/- per month and their wages were not enhanced. Consequently the union filed another case under the provisions of the U. P. Industrial Peace (Timely Payment of Wages) Act, 1978 which caused annoyance to employer and they began to conspire for terminating the services of the workmen including the workman/applicant. Ultimately the services of applicant workman were terminated w.e.f. 21.12.2001.

5. The applicant has stated that the compliance of Section 25N of the I.D. Act was necessary but the employers before terminating the services of the workman, did not follow the mandatory provisions of I.D. Act.

6. It has been emphasized in the claim statement that services of the workman were never terminated by the contractor but it had been terminated by the principal employer and the work which was being performed by the concerned workman is still existing with the employers and the same is being carried through new workmen on contract basis which is unjustified and illegal. It has also been stressed that earlier the said union had raised this dispute before the State Government which referred for proper adjudication before the Industrial Tribunal (II) U. P., Lucknow which is being proceeded before the Industrial Tribunal (II) U. P., Lucknow as Adj. Case No. 126 of 2002. Since the applicant workman was not satisfied with the efforts made by the union as such a authority letter was filed alongwith an application by 20 workmen to represent the said case but the union filed objections that the applicant are not party in the said case as he is not entitled to represent the case. The Hon'ble Presiding Officer vide order dtd. 10.3.2010 directed if the workman was not satisfied with proceedings of the union they can raise separate dispute under the provisions of Act. Thereafter 36 workmen including the concerned workman moved an application dated 10.07.2010 before the Hon'ble Presiding Officer, Industrial Tribunal (II) U. P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (II) U.P., Lucknow was pleased to allow the said application except three whose name were not mentioned in the reference order.

7. The workman further stated that in pursuance of the order dated 20.07.2010 the workman concerned along with 32 other workmen filed an application before Regional Labour Commissioner (C), Lucknow which was registered case No. LKO-8(2-32)/2010. The RLC (C) Lucknow called upon the parties for conciliation

proceedings but due to negative attitude of the employers no settlement could be arrived between the parties. Since the mandatory period of 45 days had been expired as such the concerned workman sought the permission from the Regional Labour Commissioner (C) Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011 which was accepted by the RLC (C) Lucknow and in pursuance thereof, the applicant has approached this Tribunal for adjudication of Industrial Dispute as prevalent between the workman and HAL. The applicant has emphasized that so called contract system was a mere camouflage, smoke and a serene and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the principal employer i.e. HAL in the instant case. The termination 'of the services of the workman has been termed as void-ab-initio by the applicant. The mandatory provisions of the Industrial Disputes Act.1947 not followed filed by the HAL. Act of the opposite party has been alleged as illegal and void and the workman claims himself to be entitled to get the reinstatement in service alongwith full back wages. It has also been mentioned in the claim statement since the date of termination upto the date of filing claim statement applicant is unemployed and despite of his best efforts, he could not be gainfully employed any where else.

8. The photo copy of the order passed by RLC (C) Lucknow dt. 10.02.2011 has been enclosed. The Industrial Dispute was got registered as per the direction of the then Hon'ble Presiding Officer, CGIT-cum-Labour Court and registered notices were issued to the management for filing written statement alongwith relevant documents.

9. Preliminary objections M-8 were filed on behalf of opposite parties no., 1 & 2. Opposite Parties have pointed out that Presiding Officer, Industrial Tribunal (II) UP informed them that the said dispute have been referred by appropriate government vide order dtd. 13.06.2002 and adjudication no.126/02 was registered. The name of the concerned workman was included in the list consisting of 89 persons. During the course of adjudication before the said Tribunal a group of 36 persons moved an application dated 10.5.2010 for withdrawal of their names so that they may file a separate case before the competent authority but the name of the applicant workman was not mentioned in that list, thereafter the Industrial Tribunal (II) UP vide order dated 20.8.2010 was pleased to delete the name of the said workmen except at Sl. No. 32, 33, & 34 from the list of reference order then a group of 33 persons has filed an application dated August 2010 under Section 10 of the I.D. Act., before the RLC (C), Lucknow with the prayer to call upon the employer for proper adjudication, the name of the applicant workman was mentioned at Sl. No. 11 in the list of applicants moved

there. The establishment filed objection before RLC (C) Lucknow and on 27.1.2011 during the conciliation proceedings, the authorized representative of the workmen has requested the learned conciliation officer to withdraw the Industrial Dispute so as to raise the same directly before the CGIT-cum-Labour Court, Lucknow.

10. The opposite parties have also mentioned that conciliation officer in its letter dated 10.2.2011 addressed to the Secretary, Govt. of India, Ministry of Labour and Employment, New Delhi informed that conciliation file has been closed on the request of concerned workman, thereafter the workman has filed a claim statement before the Tribunal on the same issue which has been registered at I.D. No. 70/2011.

11. It has been emphasized by opposite parties No. 1 & 2 that workman can not raise industrial dispute for adjudication by two different forum on the same matter of dispute, the concerned workman is still a party in the adjudication case No.126/2002 pending before Industrial Tribunal (II) U. P. Lucknow. The opposite parties No. 1 & 2 stressed that the present claim is barred by limitation U/s 2A (3) of the ID Act., since the workman has moved after lapse of about 10 years after the date of termination of services. It has also been alleged by the opposite parties No. 1 & 2 that the workman has not come before the Tribunal with clean hands, and he has suppressed the fact. Accordingly, opposite parties No. 1 & 2 have requested to reject the claim filed by the workman.

12. Several dates were given to the par Lies but no rebuttal/reply/rejoinder was filed by the workman regarding preliminary objections raised by the opposite parties No. 1 & 2.

13. On 13.08.2013 the learned AR of the applicant workman made an endorsement in waiting on the claim statement "I WANT TO NOT PRESS THIS CASE.". Allegedly, the matter is already pending before the Hon'ble Industrial Tribunal-II, U. P., Lucknow in Pursuance of the reference madely the U. P. Government under Section 4-K of UP Industrial Disputes Act, 1947.

AWARD

14. Under the circumstances and the facts mentioned herein, no relief is legally required to be given to the applicant/workman Sh. Mansuri Singh. The reference under adjudication is answered as NO CLAIM AWARD.

15. Award as above

LUCKNOW

28th October, 2014

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2967.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 92/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/19/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 92/2014) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Inter National Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/19/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No 92 of 2014. Reference No. L-42011/19/2014-IR(DU) dated 05/05/2014

Shri Bhagat Singh,
Son of Shri Bishan Singh,
Ex-workman C/o Shri Hublala Yadav,
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003. ...Workman

VERSUS

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Plaza III
Sector-10, Dwarka,
New Delhi 110075.

2. The General Manager,
M/s. International Centre for
Automotive Technology
Plot No. 26, Sector-3, HSIDC,
IMT Manesar, Gurgaon-122050 ...Respondents

Appearances:

- For the Workman : None.
For the Management : Sh. Ashutosh Verma and
Rajender Aneja for Res-
pondents

AWARD

Passed on : 03.11.2014

Government of India Ministry of Labour vide notification No. L-42011/19/2014-IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication :

Term of Reference:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Bhagat Singh son of Shri Bishan Singh Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date."

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2968.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबंध में और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 91/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/18/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 91/2014) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Other and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/18/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No ID No. 91 of 2014. Reference No. L-42011/18/2014-IR(DU) dated 06/05/2014

Shri Ajesh Sharma,
Son of Shri Ram Kumar Sharma,
Ex-workman C/o Shri Hublala Yadav.
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003. ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Plaza-III
Sector-10, Dwarka,
New Delhi 110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology Plot No. 26
Sector-3. HSIDC, IMT Manesar,
Gurgaon-122050 ...Respondents

Appearances:

- For the Workman : None.
For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed on:-03.11.2014

Government of India Ministry of Labour vide notification No L-42011/18/2014/IR(DU) dated 06/05/2014 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Ajesh Sharma son of Shri Ram Kumar Sharma, Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 90/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/17/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 90/2014) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/17/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No. 90 of 2014. Reference No. L-42011/17/2014/1R(DU) dated 08/05/2014

Shri Surender Kumar Jogi,
Son of Shri Amar Singh,
Ex-workman C/o Shri Hublala Yadav,
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar Faridabad-121003 ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Manish Plaza-III
Sector-10, Dwarka,
New Delhi 110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology, Plot No. 76
Sector-3, HSIDC, IMI Manesar,
Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None.

For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed On:-03.11.2014

Government of India Ministry of Labour vide notification No. L.-42011/17/2014/IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Surender Kumar Jogi son of Shri Amar Singh Jogi Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer
नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 89/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/16/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 89/2014) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/16/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No. 89 of 2014. Reference No. L-42011/16/2014-IR(DU) dated 05/05/2014

Shri Samay Singh,
Son of Shri Dhan Singh,
Ex-workman, C/o Shri Hublala Yadav,

General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003 ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Manish Plaza III
Sector-10, Dwarka,
New Delhi-110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology, Plot No. 76
Sector-3, HSIDC, IMT Manesar,
Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None

For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed On : 03.11.2014

Government of India Ministry of Labour vide notification No L.-42011/16/2014/IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

"Whether the action of the management of General Manager, M/s. International Centre for Automotive technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Samay Singh son of Shri Dhan Singh Ex-workman, w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2971.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर, मदुरै के सहायक अधीक्षक के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 01/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/261/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 01/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Asstt. Superintendent of Post Office, Madurai and their workman, which was received by the Central Government on 17/11/2014.

[No. L-40012/261/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 10th November, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 1/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Asstt. Superintendent of Post Office, Postal Department, Madurai and their workman).

BETWEEN:

Sri R. Pounraj : 1st Party/Petitioner

AND

The Asstt. Superintendent of : 2nd Party/Respondent
Post Office City South
Sub-Division Madurai-625005

Appearance:

For the 1st Party/Petitioner : M/s. R. Malaichamy,
Advocate

For the 2nd Party/Respondent : Mr. M. Liagatali,
Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-40012/261/2001-IR (DU) dated 19.12.2001 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Assistant Superintendent of Post Office, Postal Department, Madurai in dismissing the services of Sri R. Pounraj (Pavunraj) from the post of Extra-Departmental Packer is justified and legal? If not, to what relief the concerned employee is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 1/2002 and issued notice to both sides. Both parties have entered appearance through the counsel and filed claim and counter statement respectively.

3. The averments in the Claim Statement filed in the petitioner in brief are these:

The petitioner was working as ED Packer under the Respondents. While he was working as such at the postal training central sub-office an article of charge was served on him alleging that on 30.09.1987 he had defrauded the value of Pollachi HVMO No. 4787 dated 28.09.1987 for ₹ 1583/- with the forged signature of the payee in the MO and in the intimation slip and thereby failed to maintain integrity and devotion to duty in contravention to Rule-17 of Posts & Telegraphs Extra-Departmental Agents (Conduct and Service) Rule, 1964. Opportunity was denied to the petitioner to defend his case. The enquiry authority and disciplinary authority failed to apply their minds to the evidence introduced in a just manner. The petitioner had discharged the work allotted to him. He was made a scapegoat utilizing his willingness to carry out the orders of the higher authority. The Sub-Post Master who was the paying official was responsible for the omission and commission, if any. The concerned MO was paid under an acquittance. It being a high value amount, only the Sub-Post Master was the authority to make the payment. There was no receipt for handing over the money order to the petitioner. The defense of the petitioner was not taken into consideration by the enquiring authority or the disciplinary authority. The petitioner was punished by dismissing him from service without any justification. The enquiry was conducted in total violation of principles of natural justice. An order may be passed directing the Respondents to reinstate the petitioner as ED Agent with all benefits including back wages and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The petitioner who was working as Extra-Departmental Packer at Postal Training Centre Sub-Post Office during the period from 12.12.1981 to 30.09.1991 was dismissed from service w.e.f 30.09.1991. The petitioner was charged with a statement of the imputations of misconduct and misbehavior and he was asked to submit his representation. He had denied the charges and an enquiry was ordered by appointing an Enquiry Officer and a Presenting Officer on behalf of the Disciplinary Authority. The petitioner was allowed to avail service of a Defense Assistant which he availed. The enquiring authority, on enquiry had recorded a finding that the charges against the petitioner are proved. The Disciplinary Authority who had agreed with the enquiring authority had awarded the punishment. The petitioner had filed an appeal with the appellate authority and the same was dismissed. The petitioner had then approached the Central Administrative Tribunal and the Tribunal had quashed the order of dismissal and ordered the Respondents to continue the disciplinary proceedings after serving a copy of the enquiry report to the petitioner. The order was complied with and the petitioner was reinstated in service and thereafter the proceedings were continued. The petitioner was again dismissed from service w.e.f. 30.09.1991. The enquiry against the petitioner was conducted in compliance with the principles of natural justice. The petitioner is not entitled to any relief.

5. The evidence in the case consists of documents marked as Ext.W1 to Ext.14. No oral evidence was adduced by either side. The counsels have endorsed that they have no oral evidence. The Respondents have not produced any documentary evidence also.

6. The points for consideration are:

- (i) "Whether the action of the Respondent in dismissing the petitioner from service is legal and justified?"
- (ii) What if any is the relief to which the petitioner is entitled?"

The points

7. The ID had a chequered career. The petitioner who was working as Extra Departmental Packer was alleged to have defrauded the value of an MO for ₹ 1583/- on 30.09.1987. After the incident was revealed article of charges have been served on the petitioner and an enquiry had been conducted. On the basis of the enquiry report, the punishment of dismissal from service was imposed on the petitioner w.e.f. 09.01.1989. However, on petitioner challenging the order before the Central Administrative Tribunal (CAT), the Tribunal quashed the order of

dismissal holding that a copy of the enquiry report had not been served on the petitioner. The Tribunal directed that the petitioner should be reinstated in service. The Respondents were allowed to continue the enquiry proceedings also. The Respondents proceeded further in compliance with the direction of the CAT and again entered a finding of guilt against the petitioner and dismissed him from service again w.e.f., 30.09.1991. It is against this order of dismissal this dispute is raised. This Tribunal had earlier passed an ex-parte order in favour of the petitioner on 06.10.2003. The Respondents have challenged this order before the High Court of Madras in WP No. 8981/2004. By order dated 25.06.2014 the Hon'ble High Court has set aside the award and remanded the matter for fresh disposal on merits and in accordance with law within a period of three months from the date of receipt of copy of the order, after giving opportunity to both the parties. The documents on the side of the petitioner were marked after this. The Respondents have not adduced any oral or documentary evidence.

8. It has been argued by the counsel for the Respondent that the ID is liable to be taken off the file for the very laches on the part of the petitioner. The counsel has relied upon the decision of the Apex Court in *UTTARANCHAL FOREST DEVELOPMENT CORPORATION AND ANOTHER VS. JABAR SINGH AND OTHERS* reported in 2007 2 SCC 112 to advance his argument. It was a case where there was a delay of 10 years in filing Writ Petition challenging the order of retrenchment of the workman. The Apex Court has held that the Writ Petition is liable to be dismissed on the ground of delay of 10 years. In the present case the order of dismissal was made w.e.f. 30.09.1991. The petitioner has not lifted his little finger until 2001 when he approached the Labour Commissioner raising the dispute. Thus he has raised the dispute only after a decade. He has not given any explanation for the laches on the part in raising the dispute. So far as the Respondent is concerned it was treated as a concluded matter long ago. Such unexplained laches on the part of the petitioner is something which could not be justified. The ID is liable to be dismissed for this reason itself.

9. Earlier my predecessor had granted an order in favour of the petitioner because the Respondents have failed to represent the matter. The petitioner has not produced any documents on his part at that time to help the Court in adjudicating the case. It was because the matter was not considered on merits, the Hon'ble High Court has restored the matter to file with direction to dispose the case on merits after giving opportunity to both sides to adduce evidence. After the matter came back to this Tribunal, the petitioner has produced documents marked as Ext.W1 to Ext.W14. However, on going through the documents I find that most of the documents which would be relevant for

adjudication are not produced by the petitioner even now. The petitioner was dismissed from service after conducting an enquiry. The Charge Memo served on the petitioner has been produced. The Enquiry Report also is produced. The Memorandum alongwith the Charge Memo has directed the petitioner to submit his written statement of defense for the same. However, the copy of the written statement that was given by him is not seen produced. On going through the enquiry report it is seen that an investigation was carried before the enquiry and statement of the relevant persons were recorded also. Those persons whose statements were recorded were examined as witnesses before the Enquiry Officer. It could be seen from the enquiry report that these witnesses have given evidence based on those statements. However, neither those statements nor the depositions of the witnesses in the enquiry proceedings which would be relevant for adjudication are seen produced by the petitioner. So this Tribunal is highly constrained in adjudicating the matter. The Respondent could not be found fault with in not able to produce the documents in respect of a matter which has been closed 10 years ago.

10. Even on considering the limited materials available, it could be seen that there is no justification for the claim of the petitioner that he was terminated from service wrongly and he is entitled to reinstatement. On going through the Charge Memo it could be seen that the charge against him is that while working as ED Packer at Postal Training Centre Sub Post Office, he had defrauded the value of a money order for ₹ 1583/- on 03.09.1987 by forging the signature of the payee in the money order and the intimation slip. The petitioner was sufficiently represented in the enquiry proceedings by his representative. The enquiry report shows that the Officer who investigated the matter has been examined as SW1 in the enquiry proceedings and the statements recorded by him during investigation were marked as Ext.SE7 to Ext.SE12. The one examined as SW2 was the Sub-Postmaster of the concerned Post Office. The enquiry report reveals that she has given evidence in accordance with the statement given by him to SW1 who conducted the investigation. She has stated during the examination that the practice in the Post Office was to entrust Money Orders to the petitioner who was the ED Packer and Kumaraswamy who was the EDDA. She has stated that this was the system prevailing in the Post Office and she could not have changed it. She has further stated that on 30.09.1987 also the MOs entrusted with Pavunraj and Kumaraswamy were all paid by them and that MO No. 4787 dated 28.09.1987 for ₹ 1583/- which is the subject matter of the dispute also was paid by the petitioner. SW3 who was the Postal Assistant has stated that she has prepared the intimation slip and it is the petitioner who has effected payment of the MOs. According to her, EDDA who was available in the office

was giving intimation to the trainees. Kumaraswamy who was the EDDA himself was examined as SW4. What he has stated is that he was not present at the Post Office when the MO payments were made on 30.09.1987. SW5 is Natarajan to whom the Money Order was entrusted. He has disowned the signatures appearing in the MO Voucher and Intimation Slip which are also seen produced before the Enquiry officer.

11. The argument that is advanced in the notes of arguments submitted on behalf of the petitioner is that normally it was the duty of Sub-Postmaster examined as SW2 to make window payment of Money Orders and it was not his duty at all. The argument seems to be that for this reason itself guilt could not be fastened on the petitioner. However, there is the specific evidence given by SW2 that as per the practice in the branch the petitioner who is the ED Packer and SW4 the EDDA used to make MO payments. The Enquiry Officer has referred to the statement of SW2 that she has handed over a total amount of ₹ 30,000/- pertaining to various MOs including the MO under dispute to the petitioner. It could also be seen from the discussion by the Enquiry Officer that the petitioner himself has admitted that he has received ₹ 30,000/- from SW2. According to SW2, every other MO other than the disputed one was paid by the petitioner on that day. The argument that is advanced on behalf of the petitioner is that though he received the amount, he had paid the amount to SW4 who was to make the payment. The counsel has also referred to the contradictory statement of SW3 and SW4 regarding the presence of SW4 at the office on the particular day. However, on going through the enquiry report I do not think there is much of any contradiction. What SW3 has stated is that SW4 was giving intimation to the trainees. What SW4 himself has stated is that he was not there at the time when MO payment was made and not that he was not in the office on the day at all. If it is the case of the petitioner that SW2 herself was to make window payment, his version that he has received ₹ 30,000/- for payment to SW4 does not make any sense. If his case is correct there would not have been any necessity for SW2 to pay the amount to the petitioner for entrustment with SW4. In any case if SW4 was to make the payment it is unlikely that it would have been entrusted with the petitioner rather than paying it directly to SW4. The enquiry report reveals that SW4 has deposed that all the MOs were paid by the petitioner himself. So it is unlikely that the MO under dispute alone would have been retained by SW2 for payment or that alone was entrusted with SW4. The Enquiry Officer has stated in his report that the signatures is appearing in the intimation slip and the MO forms are different. He has stated that if it was SW2 who was making payment she would have noticed this and would not have made payment at all. The entire evidence as could be deciphered from the enquiry report points to

the petitioner as the person who has been responsible for the incident. When SW5 the person who was to receive the amount has denied receipt, the proof against the petitioner is complete. Thus it could be seen that it was with sufficient proof that the Enquiry Officer has come to the conclusion that the petitioner is responsible for the incident.

12. Based on the decision of the Apex Court in UNION OF INDIA AND OTHERS VS. GYAN CHAND CHATTAR reported in 2009 12 SCC 78 the counsel for the petitioner has stated that no enquiry can be sustained on vague charges. However, I do not find anything vague in the Charge Memo served on the petitioner. The only incident which is the subject matter of the charge has been specifically described in the Charge Memo and the petitioner has undergone the enquiry fully aware of the charge against him. The finding of the Enquiry Officer could not be termed as perverse or unreasonable nor based on conjectures and surmises as is attempted to be made out by the counsel for the petitioner. I find that even on merits the petitioner has no case. The punishment also could not be considered as disproportionate.

13. In view of my discussion above, the petitioner is not entitled to any relief. The reference is answered against the petitioner.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	04.06.1988	Charge Memo of 1 st Respondent
Ex.W2	31.12.1988	IO's report a/w typed copy
Ex.W3	05.03.1991	Order in O.A. No. 738 of 1990
Ex.W4	29.04.1991	Appeal to 1 st Respondent
Ex.W5	30.09.1991	Order of 1 st Respondent
Ex.W6	07.04.1999	Representation
Ex.W7	10.06.1999	Order of PMG, Madurai
Ex.W8	06.10.2003	Award in ID 1 of 2002
Ex.W9	12.12.2003	Order of Labour Commissioner
Ex.W10	26.04.2004	Notice issued by Hon'ble HC, Madras
Ex.W11	16.06.2004	Cheque Xerox copy
Ex.W12	21.06.2014	Counter statement in WP No. 8981 of 2004
Ex.W13	25.06.2014	Order in WP No. 8981 of 2004
Ex.W14	20.08.2014	Notice of this Hon'ble Tribunal

On the Management's side

Ex.No. Date Description

N/A

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जैट एअरवेज लिमिटेड एवम् अन्य चार एअरलाईन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 68, 70, 71, 74, 75, 76, 77, 78 & 79/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-11012/42/2010-आई. आर. (सी-1);
सं. एल-11012/44/2010-आई. आर. (सी-1);
सं. एल-11012/50/2010-आई. आर. (सी-1);
सं. एल-11012/43/2010-आई. आर. (सी-1);
सं. एल-11012/46/2010-आई. आर. (सी-1);
सं. एल-11012/47/2010-आई. आर. (सी-1);
सं. एल-11012/48/2010-आई. आर. (सी-1);
सं. एल-11012/49/2010-आई. आर. (सी-1);
सं. एल-11012/51/2010-आई. आर. (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 18th November, 2014

S.O. 2972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 68, 70, 71, 74, 75, 76, 77, 78 & 79/2011 of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of M/s. Jet Airways Ltd & 4 other Airlines, and their workmen, received by the Central Government on 18/11/2014.

[No. L-11012/42/2010 - IR (CM-I);
No. L-11012/44/2010 - IR (CM-I);
No. L-11012/50/2010 - IR (CM-I);
No. L-11012/43/2010 - IR (CM-I);
No. L-11012/46/2010 - IR (CM-I);
No. L-11012/47/2010-IR (CM-I);
No. L-11012/48/2010- IR (CM-I);
No. L-11012/49/2010- IR (CM-I);
No. L-11012/51/2010- IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Monday, the 20th October, 2014

Present:

K. P. PRASANNA KUMARI, Presiding Officer

**Industrial Dispute Nos. 68, 70, 71, 74, 75, 76, 77, 78
and 79/2011**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/S. Jet Airways and Four Others and their workman)

BETWEEN:

- | | |
|------------------------|--------------------------|
| 1. Sri T. Suresh | Petitioner in ID 68/2011 |
| 2. Sri D. Daniel | Petitioner in ID 70/2011 |
| 3. Sri V. Mahesh Kumar | Petitioner in ID 71/2011 |
| 4. Sri D. Durai | Petitioner in ID 74/2011 |
| 5. Sri V. Jayan | Petitioner in ID 75/2011 |
| 6. Sri S. Suresh | Petitioner in ID 76/2011 |
| 7. Sri K. Sridhar | Petitioner in ID 77/2011 |
| 8. Sri P. Nithyanandam | Petitioner in ID 78/2011 |
| 9. K. Babu | Petitioner in ID 79/2011 |

AND

- | | |
|---|---|
| 1. M/s. Jet Airways Ltd.
SM Centre,
Andheri-Kurla Road
Andheri East
Mumbai-400059 | : 2 nd Party/1st
Respondent |
| 2. M/s. Sahara Airlines Ltd.
N.L.-70/329,
Mahipalpur Extension
New Delhi | : 2 nd Party/2nd
Respondent |
| 3. M/s. Jet Lite (India) Ltd.
Anna International
Terminal RM & D Department
Meenambakkam
Chennai-600027 | : 2 nd Party/3rd
Respondent |
| 4. M/s. Decor Drapes
Aviation Services
Ashvin Manor Airport Road
HAL New Borewell
Bangalore -560017 | : 2 nd Party/4th
Respondent |

- | | |
|--|---|
| 5. M/s. Sahara Parivar
Sahara Information &
Contact Point
PB No. 2, Gomathy Nagar
Lucknow-226010 | : 2 nd Party/5th
Respondent |
|--|---|

In All Industrial Disputes

S.No.	I.D. No.	Reference No. & Date
1.	68/2011	L-11012/42/2010-IR(CM-I) dated 05.08.2011
2.	70/2011	L-11012/44/2010-IR(CM-I) dated 16.08.2011
3.	71/2011	L-11012/50/2010-IR(CM-I) dated 16.08.2011
4.	74/2011	L-11012/43/2010-IR(CM-I) dated 16.08.2011
5.	75/2011	L-11012/46/2010-IR(CM-I) dated 16.08.2011
6.	76/2011	L-11012/47/2010-IR(CM-I) dated 16.08.2011
7.	77/2011	L-11012/48/2010-IR(CM-I) dated 16.08.2011
8.	78/2011	L-11012/49/2010-IR(CM-I) dated 16.08.2011
9.	79/2011	L-11012/51/2010-IR(CMI) dated 16.08.2011

Appearance :

- | | |
|------------------------------|---|
| For the 1st Party/Petitioner | : M/s. M. Muthu Pandian, Advocate |
| For the 2nd Party/Respondent | : M/s. Gupta & Ravi, Advocates |
| For the 2nd Party/Respondent | : Set Ex-parte |
| For the 2nd Party/Respondent | : M/s. Gupta & Ravi, Advocates |
| For the 2nd Party/Respondent | : M/s. Sai Raaj Associates, Advocates |
| For the 2nd Party/Respondent | : Sri V. Devraj (Authorized Representative) |

COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the order of references detailed above referred the IDs to the Industrial Tribunal, Madras for adjudication. The IDs were numbered as ID 68, 70, 71 and 74 to 79/2011 respectively.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

ID 68 of 2011

“Whether the action of the Management of the erstwhile M/s. Sahara Airlines Ltd., now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd., and M/s. Jetlite (India) Ltd. in denying employment to Sri T. Suresh, an Ex-Loader is legal and justified? To what the concerned workman is entitled to?”

ID 70 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V.D. Daniel, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 71 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V. Mahesh Kumar, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 74 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri D. Durai, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 75 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V. Jayan, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 76 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri S. Suresh, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 77 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri K. Sridhar, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 78 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri P. Nityanandam, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 79 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri K. Babu, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

3. On receipt of notice, the petitioners and Respondents 1st, 3rd and 4th have appeared through their counsel and the Fifth Respondent through Authorized Representative and filed claim and counter statement respectively. The 2nd Respondent has remained ex-parte.

4. The averments in the Claim Statement in ID 68/2011 are as below:

The petitioner has received a telegram asking to join duty with Sahara Airlines Ltd., the Second Respondent on 26.06.2003 and he has joined duty. He has started working as Loader in the Cargo Division of the Second Respondent in Chennai. The petitioner used to work for 12 hours daily. The petitioner was paid salary of ₹ 3,000/-. During the last 3 months of his job he was getting salary of ₹ 3,500/-. The petitioner was expecting to be made permanent by the 2nd Respondent since he has worked for 4 years under the Respondent. During March 2007 there was a merger with Jet Airways Ltd. the First Respondent. The Second Respondent promised that the interests of the workers would be protected by obtaining job for them in the merger company. Even after, four years of the merger the petitioner has neither got the job nor the settlement amount as promised. There may be an order directing the Respondents to reinstate the petitioner in service with back wages and other consequential reliefs.

5. The First Respondent has filed Counter Statement contending as below:

The First Respondent is not a necessary party to the dispute. The First Respondent is not concerned with the reference made by the appropriate government. The petitioner was never an employee of the First Respondent. There was no master-servant relationship between the First Respondent and the petitioner. It is seen from the pleadings filed before the Conciliation Officer that the petitioner was under the employment of the Fourth Respondent who was the Contractor of erstwhile Sahara Airlines Ltd .. the Second Respondent. It is incorrect to state that there was merger of the second Respondent with the First Respondent. The petitioner is not entitled to any relief against the First Respondent.

6. The Second Respondent has remained ex-parte.

7. The Third Respondent has filed Counter Statement contending as below:

The reference before this Tribunal is incompetent and cannot be adjudicated upon. The reference proceeds on the basis that the petitioner was employed by Respondents 2 to 5. There cannot be a situation wherein Respondents 2 to 5 which are separate legal entities would become employer of the petitioner. The petitioner was never an employee of the third Respondent and there was no master and servant relationship between them at any time. The Fifth Respondent was originally carrying out airline business in the name and style of Sahara Airlines Ltd. which has been impleaded as Second Respondent. The shares held by the Fifth Respondent in the Second Respondent Company were subsequently acquired by the First Respondent and consequently the name of the Second Respondent was changed as Jetlite India Ltd., the third Respondent. The Third Respondent has no connection with the other Respondents, but is a distinct and separate legal entity. The only connection between the First and Third Respondents is that the First Respondent holds the entire shares of the Third Respondent Company and has the status of shareholder. The Second Respondent had awarded a contract to the Fourth Respondent for carrying out ancillary ground support services at the Chennai Airport by agreement dated 26.10.2002. The agreement seems to have been renewed from time to time. The Second respondent had a certificate of registration for contract labour and the Fourth Respondent had obtained license under the CLRA Act. As seen from the counter filed in the conciliation proceedings, the petitioner was in the employment of the Fourth Respondent. The contract with the Fourth Respondent was discontinued w.e.f. 05.09.2007. Consequent to the termination of the contract the third Respondent had no relationship with the Fourth Respondent. The salary for the petitioner was paid only

by the Fourth Respondent. The question of protecting the employment of the petitioner does not arise as he was employed by the Fourth Respondent only. No assurance was given that the job of the petitioner or others would be protected. The contract of the Fourth Respondent was terminated in September, 2007. The petitioner has raised the dispute only in July, 2009. If at all the petitioner has any claim it is to be made only against the Fourth Respondent. The petitioner is not entitled to any relief.

8. The Fourth Respondent has filed counter statement contending as below:

There is no claim in the petition that the petitioner was employed with the Fourth Respondent or that any termination of service was brought by the Fourth Respondent. Each of the Respondents are independent entities. The petitioner has sought reinstatement with the Respondents without specifying from which of the Respondents relief is sought. The claim of the petitioner is vague and is to be dismissed on this ground itself. The Fourth Respondent provides various support services to various Airlines in the form of ground handlings, cleaning of aircrafts, baggage handling, providing passenger facilitation for the airlines and also providing drivers for vehicles. The Bureau of Civil Aviation Security has approved the Fourth Respondent as a ground handling agency. Depending upon the requirement of airlines, the Fourth Respondent enters into contract or obtains order in the form of a tender for providing various services to the Airlines in the airport. A contract was entered into with the Second Respondent and this was renewed each year between 2003 to 2007 prior to the merger of the second Respondent with the First Respondent. The Fourth Respondent has the necessary license under the CLRA Act for employing contract labour. The petitioner is one such workman who was engaged by the Fourth Respondent on casual basis as part of fulfillment of its contractual obligations with the Second Respondent. By or about March 2007 the contract with the second Respondent ceased to exist consequent to the merger of the Second Respondent with the First Respondent. Casual loaders such as the petitioner ceased to be in the employment of the Fourth Respondent consequently. It is denied that the petitioner worked on a 12 hour basis. The work of the loaders in the Airport is fluctuating and is dependent on passenger traffic as well as number of flights. The petitioner did not seek employment with the Fourth Respondent at any time. Even as on this date the Fourth Respondent has certain ongoing contract in the Chennai Airport with other Airlines and is willing to provide casual employment to the petitioner as was earlier provided. It is open to the petitioner to report for work with the Fourth Respondent.

9. The Fifth Respondent has filed Counter Statement contending as below:

The correct name of the Fifth Respondent is Sahara India and not Sahara Parivar. The petitioner was not working with any of the establishments of Sahara India Group. There is no employer-employee relationship between the petitioner and the Fifth Respondent. There was no merger of Sahara Airlines Ltd. with Jet Airways Ltd. The management and ownership of Sahara Airlines Ltd. was taken over by Jet Airways Ltd. The claim of the petitioner that he was asked to join duty with Air Sahara is not true. The petitioner was deputed with the Fifth Respondent by the Fourth Respondent. It is incorrect to state that the petitioner was assured of a permanent job with the Second Respondent. The petitioner is not entitled to any relief.

10. The petitioners in ID 70/2011, 71/2011, 74/2011, 75/2011, 76/2011, 77/2011, 78/2011 and 79/2011, all claim to have been employed by the Second Respondent. The averments in the Claim Statement filed by all these petitioners are replicas of the Claim Statement filed by the petitioner in ID 68 of 2011. All the petitioners have claimed the relief of reinstatement with the Respondents. In all these disputes the respondents have filed Counter Statement repeating the contentions that are raised in the Counter Statements filed by them in ID 68 of 2011.

11. The Respondents in all the IDs being the same and the issue to be decided in all the IDs also being similar, the IDs were tried jointly.

12. At the initial stage the petitioners were represented by a lawyer and he was conducting the cases. Though the lawyer is still on record, at the later stage he was not available. The petitioner in ID 68/2011 was the one who was mainly representing the other petitioners and conducting their cases on behalf of other petitioners also. However, during his examination he has stated that he is not representing the petitioners in ID 70/2011, 74/2011 and 79/2011.

13. The evidence in the case consists of oral evidence of WW1 and MWs 1 to 3 and documentary evidence consisting of Exts.W1 to W7 and Exts.M1 to M27.

14. The point for consideration is:

“Whether the petitioners in the above Industrial Disputes are entitled to reinstatement as claimed?”

The Point

15. All the petitioners are claiming the relief of reinstatement by the Respondents. The case is that they have started to work with the Second Respondent on the basis of a telegram asking to join duty and they have been working for 12 hours on daily basis. They are said to have worked for almost 4 years as Loaders,

continuously. In the meanwhile, during March 2007, merger between the Second Respondent and the First Respondent is said to have taken place. It is stated in the Claim Statement that though there was an assurance from the Second Respondent's council that the workers grievance will be settled, they were not given any job nor paid any amount as promised.

16. On going through each of the Claim Statements it could be seen that the very nature of these Claim Statements is vagueness. No specific plea is raised by the petitioner on any aspect. Though it is stated in the Claim Statement that the petitioners have started to work on the basis of a telegram with the Second Respondent, it is not stated who has sent the telegram or who has engaged the petitioners as Loaders. The date on which they have started to work also is not specifically mentioned. It is not clear from the Claim Statement if the date given is the date on which the telegram was received or the date on which the petitioners started to work. Though it could be gathered from the Claim Statement that each of the petitioners are without any work, it could not be gathered on which date they were turned out from job and by whom. It is stated that there was a merger of the First Respondent and Second Respondent companies. However, it is not clear whether the petitioners have continued to work after the merger which is said to have taken place. The case of respondents other than the Fourth Respondent is that it was not a case of merger at all but the shares of the Fifth Respondent in the Second Respondent were taken over by the First Respondent and the name of the Second Respondent was changed and the Third Respondent Company was formed. It is the case of Respondents that each of the Respondents are different entities. However, there is no case in the Claim Statement who has employed the petitioner or who had terminated them, if at all done. Again, the petitioners do not specify against whom they are claiming the relief of reinstatement. If the Respondents are different entities, the petitioners could not have been under the employment of all of them at the same time. It is not clear from the Claim Statement who is to reinstate the respective petitioners.

17. All the Respondents other than the Fourth Respondent have contended that there is no employer - employee relationship between them and the respective petitioners. The Fourth Respondent has pointed out in the Counter Statement that there is no case for the petitioners that they were employed by the Fourth Respondent. At the same time the Fourth Respondent has stated in the Counter Statement that the petitioners were under its employment. According to this respondent it has entered into an agreement with the Second Respondent in the year 2002 for handling ground services. This was renewed every year and continued until 2007 when the Second Respondent became nonest and the Third Respondent Company was formed and had taken over the business.

18. Even though there is no specific plea in the Claim Statement, it is clear from the evidence of the petitioner in ID 68/2011 who has given evidence on behalf of the other contesting petitioners also as WW1 that all of them were employed by the Fourth Respondent only. He has admitted during his cross-examination that the Fourth Respondent was the Contractor of the Second Respondent and he was given employment by the Fourth Respondent, though he would claim that he was interviewed by the Second Respondent. He has stated that himself and all other petitioners have joined in their job in the same month and year. He has admitted that it was the Fourth Respondent who was paying salary to him and all others. He has admitted that they were covered under ESI and PF by the Fourth Respondent. It is also admitted that Rs 1, 2 and 3 did not issue any appointment order to them. Then he stated that they were working with the Fourth Respondent till 31.03.2007 and after that the Fourth Respondent did not give any employment to them. It could also be seen from the admission of WW1 that it was the Fourth Respondent who was supervising the job of the petitioners at the Airport According to WW1, while the petitioners were working in the Airport the Manager of the Fourth Respondent used to come to the Airport occasionally. However, there was a supervisor of the Fourth Respondent who used to come to the Airport daily. According to WW1, though Supervisor of the Fourth Respondent was there, work used to be allotted by the Supervisor of Sahara Airlines Ltd. However this could not be an indicator of direct employment of the petitioner by the 2nd Respondent. In the decision in International Airport Authority Vs. International Air Cargo Workers (dated 13.04.2009) the Apex Court has held that loading, unloading, etc. in the cargo complex of Airport will naturally be under the supervision of Airport Officers and it cannot be taken as evidence of direct employment. As is seen from the evidence of WW1, the petitioners had asked the Fourth Respondent for job after 31.03.2007 also. It has agreed to provide job if it got another contract also. Thus it could be seen from the evidence of WW1 itself that himself and other petitioners were employed by the Fourth Respondent and it was only with the Fourth Respondent as Contractor the petitioners were doing the job of Loader for the Second Respondent. MW1 examined on behalf of the Fifth Respondent and MW2 examined on behalf of Rs 1 and 3 have reiterated their case in the Counter Statements. There is also the evidence of MW3 on behalf of the Fourth Respondent asserting the case that all the petitioners were employed by it. The documents to show that the Fourth Respondent had the necessary license to take up the job and had entered into a contract with the Second Respondent are produced by the 3rd respondent. These

are Exts.M1 to 6, M8 and M9. The petitioners did not produce any document to show from which date they have started to work with the Second Respondent as claimed by them, what were the conditions of engagement, etc. The documents produced and marked as Ext.W1 to Ext.W5 are certificates issued by Air Sahara stating that they have participated in Aviation Security Awareness Programmer at Chennai. It is very much clear from the evidence of WW1 itself that Fourth Respondent was the employer of the petitioners and they were working as contract labourers under the Fourth Respondent.

19. There is no case in the Claim statement that the contract entered into between the Fourth and Second Respondent is sham and nominal and actually the Second Respondent is the employer. Even during evidence there was no attempt on the part of the petitioners to put forth the case that the contract is sham and nominal and was not acted upon. As already stated, there is not even a case in the Claim Statement that it is the Fourth Respondent who has employed the petitioners on the basis of a sham agreement. In spite of this, an attempt is seen made in the written argument submitted on behalf of the petitioners to show that the contract is a sham one. In the absence of any plea or any evidence this need not be considered at all.

20. The counsel for Respondents 2 and 3 has referred to the decision in GUJARAT ELECTRICITY BOARD THERMAL POWER STATION, GUJARAT VS. HIND MAZDOOR SABHA AND OTHERS reported in AIR 1995 SC 1893 which would have laid down that the individual contract workmen could not even raise the dispute in the absence of a plea that the contract is sham and nominal. Only when such a dispute is raised with such a contention by the concerned workmen the Industrial Adjudicator has to decide whether the contract is sham or genuine. It is only when the adjudicator comes to the conclusion that the contract is sham he will get jurisdiction to adjudicate the dispute. If the conclusion is that the contract is genuine the reference is to be rejected, the dispute being not an industrial dispute within the meaning of Section-2K of the Industrial Disputes Act. Again, in BHARAT HEAVY ELECTRICALS LTD. VS. ANIL AND OTHERS reported in JT 2006 (10) SC 297 also the Supreme Court has laid down the distinction between an individual dispute which is deemed to be an industrial dispute under Section-2A of the ID Act and an ID espoused by the Union in terms of Section-2(i) of the Act. It has been held that Section-2A does not cover every type of dispute between an individual workman and his employer, but it only enables the individual worker to raise the dispute notwithstanding that no other workman or union is party to the dispute and it applies only to disputes relating to discharge, dismissal, retrenchment or termination of service of an individual workman. When

the petitioners were not employed directly or terminated by the Second Respondent they could not seek any reinstatement with the Respondents 1 to 3 or 5 in the sense that they never engaged the petitioners. As already stated, there is no specific plea regarding this also.

21. Even in the Counter Statement the Fourth Respondent has stated that it is willing to provide employment to the petitioners since they have got another similar contract with another Aviation Company for the same kind of work. Even during the trial stage, some negotiation was made and the Fourth Respondent has agreed to provide work to the petitioners who are willing to work also. However, the petitioners have insisted that they are seeking a job with the First Respondent only by way of reinstatement for which they are not entitled in the circumstances discussed above. Therefore I find that none of the petitioners are entitled to any relief. However, I expect the 4th Respondent will extend a helping hand to the willing petitioners at this stage when their dreams of a job with the 1st Respondent is shattered by the disposal of this reference.

22. In view of my discussion above, all the references are answered against the petitioners. The awards are passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioners : W1/W1, Sri T. Suresh
MW1, Sri V. Devraj
For the 2nd Party/Respondents : MW2, Ms. A. Sadhana
MW3, Sri L. Pramod

Documents marked:

On the Petitioner's side:

Ex. No.	Date	Description
Ex.W1	29.07.2005	Copy of Certificate
Ex.W2	29.07.2013	Copy of Certificate
Ex.W3	29.07.2005	Copy of Certificate
Ex.W4	29.07.2005	Copy of Certificate
Ex.W5	29.07.2005	Copy of Certificate

On the Management's side:

Ex. No.	Date	Description
Ex.M1	27.07.2009	Petition filed by T. Suresh before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M2	27.07.2009	Petition filed by V. Mahesh Kumar before the Asstt. Commissioner of Labour (Central)-II, Chennai

Ex.	Date	Description
Ex.M3	27.07.2009	Petition filed by V. Jayan before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M4	27.07.2009	Petition filed by S. Suresh before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M5	27.07.2009	Petition filed by K. Sridhar before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M6	27.07.2009	Petition filed by N. Nithyanandam before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M7	01.10.2009	Counter filed by the 1 st Respondent M/s. Jet Airways (India) Ltd. before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M8	(Page 118a) (Page 119b) (Page 120c)	Salary statement for January 2007- (Air Sahara Loaders at And Chennai Airport) by Decor Drapes Aviation Services
Ex.M9	26.10.2002	Agreement entered into between 2 nd Respondent M/s. Sahara Airlines Ltd. and 4th Respondent M/s. Decor Drapes Aviation Services
Ex.M10	02.11.2002	Letter from 2 nd Respondent M/s. Sahara Airlines Ltd. to the 4th Respondent M/s. Decor Drapes Aviation Services
Ex.M11	—	Form V Certificate by the 2 nd Respondent M/s. Sahara Airlines Ltd.
Ex.M12	11.07.2003	Registration Certificate under the Contract Labour Central Rules issued to the 2 nd Respondent M/s. Sahara Airlines Ltd.

Ex.M13	12.03.2004	License issued by the Asstt. Commissioner of Labour (Central), Chennai to the 4th Respondent M/s. Sahara Airlines Ltd.	Ex.M24	27.07.2009	Petition filed by K. Babu before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M14	Various dates	License issued by the Asstt. Commissioner of Labour (Central), Chennai to the 4th Respondent M/s. Decor Drapes Aviation Ltd.	EX.M25	15.10.2009	Counter filed by the 3 rd Respondent M/s. Jet Lite (India) Ltd. before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M15	18.01.2006	Share Purchase Agreement	EX.M26	28.10.2009	Counter filed by the 4th Respondent M/s. Decor Drapes Aviation Services before the Asstt. Commissioner of Labour (Central)-II, Chennai with Annexures
Ex.M16	30.12.2006	Agreement entered into between 2 nd Respondent M/s. Sahara Airlines Ltd. and 4th Respondent M/s. Decor Drapes Aviation Services	EX.M27	30.10.2009	Counter filed by the 5th Respondent M/s. Sahara India Pariwar before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M17	13.01.2007	Form-3A submitted by the 4th Respondent M/s. Decor Drapes Aviation Services with the Employees Provident Fund Organization	<p>नई दिल्ली, 19 नवम्बर, 2014</p> <p>का.आ. 2973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 93/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।</p> <p>[सं. एल-14011/05/2000-आईआर (डीयू)]</p> <p>पी. के. वेणुगोपाल, डेस्क अधिकारी</p> <p>New Delhi, the 19th November, 2014</p> <p>S.O. 2973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/93/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 18/11/2014.</p> <p>[No.L-14011/05/2000-IR(DU)]</p> <p>P. K. VENUGOPAL, Desk Officer</p>		
Ex.M18	12.03.2007	Invoices raised for the month of January 2007 along with salary statement by the 4th Respondent M/s. Decor Drapes Aviation Services			
Ex.M19	01.04.2007	Amended Share Purchase Agreement			
Ex.M20	06.08.2007	Letter of termination of contract given by the 3rd Respondent M/s. Jet Lite (India) Ltd. to the 4th Respondent M/s. Decor Drapes Aviation Services			
Ex.M21	13.02.2008	No due certificate given by the 4th Respondent M/s. Decor Drapes Aviation Services to the 3rd Respondent M/s. Jet Lite (India) Ltd.			
Ex.M22	27.07.2009	Petition filed by VD Daniel before the Asstt. Commissioner of Labour (Central)-II, Chennai			
Ex.M23	27.07.2009	Petition filed by D. Durai before the Asstt. Commissioner of Labour (Central)-II, Chennai			

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/93/00

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Rajendra Dagaur,
C/o Shri S.A. Khan,
Mahamantri GCF Mazdoor Union,
Sheetalamai, 743/3/East Ghamapur,
Jabalpur

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARDPassed on this 24th day of September, 2014

1. As per letter dated 30-5-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-14011/5/2000/IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rakesh Kumar Raikwar and 20 other (as per list) is justified? If not, to what relief the workmen are entitled?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim through Rajendra Dagaur at Pages 4/1 to 4/3. Case of Ist party workman is that Shri Rajendra Dagaur and 32 others were appointed for work of safety of cycle stand from 1-3-91 by General Manager of IInd party No. 3. That as per order, 50 % employees were to be taken from dependent of retired employees and remaining 50 % dependent of working employees. The rates of cycle stand were fixed on 8-1-91. Those 33 employees were paid ₹ 450/- per month. They were to be paid bonus ₹ 380. They had submitted grievance before ALC for not paying minimum wages. IInd party got annoyed and discontinued from services showing them as employees of contractor Chourasia. That termination of their service without notice is in violation of Section 25-F of I.D. Act. On such ground, it is prayed that all 21 employees shown in the list with reference order be reinstated.

3. IInd party filed Written Statement at Pages 14/1 to 14/2. IInd party denied employer- employee relationship. Any of those workmen were not engaged by IInd party.

They were not appointed by management. Claim of workman relates to the contractor. The contractor was engaged to look after cycle stand. Management has nothing to do with it. The services of workman are not terminated by IInd party. They were engaged by contractors for looking after cycle stand, gate pass was issued for the purpose of security. On all such contentions, IInd party prayed for rejection of claim.

4. Additional Written Statement is filed after application for better particulars. It is submitted that manpower in factory is provided by Central Govt.. according to statutory recruitment order, its appointments are made by General Manager. The factory employees out of fear of safety of cycle , scooter, moped etc. approached management for safeguarding of their vehicles, Mukesh Trivedi Outsider was allowed contract of cycle stand. The charges were fixed per cycle- ₹ 2/-, moped- ₹ 3/-, Scooter- ₹ 4/- quarterly and annual rates are also shown. IInd party submits that workman were not engaged by management. There was no employer employee relationship. That services of workmen were not terminated by management. Workmen are not entitled to any relief as prayed.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) “Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rakesh Kumar Raikwar and 20 other (as per list) is justified?” | Services of concerned workmen were not terminated by IInd party. |
| (ii) If not, what relief the workman is entitled to?” | Workmen are not entitled to any relief. |

REASONS

6. Workmen Ist party challenging termination of their service for violation of Section 25-F. Management denied employer-employee relationship. Workmen were not engaged by management. They were employees of contractor for safeguarding cycle stand. Identical affidavit of witness of Shri Wilson, Jagdish Khare, Rakesh Kumar, Badri Mishra are filed. In their affidavit, all those workmen have stated that they were appointed for working at bicycle stand. The charges of cycle stand were deducted from salaries of the employees. Workmen were paid ₹ 250/-, 350/-, 450/- per month. Bonus of ₹ 380/- was paid to them. Their services were terminated without notice. Affidavit of all workmen as well pleading of Ist party are not clear who had appointed them. Wilson was not cross-examined. Jagdish Prasad in his cross-examination says his name

was registered in Employment Exchange. Post was not advertised. He has not submitted application. Notice was displayed on board. He was appointed as waterman. He was paid ₹ 250/- per month. Bonus ₹ 380/- was paid to him. His service book was not prepared. He was assured to be regularized after 3 ½ years. Rakesh Kumar is not cross-examined. Rajendra Dagaar died during pendency. His LRs are brought on record. Badrivishal in his cross-examination says he had not submitted application for appointment, notice was displayed on notice board. Appointment letter is produced on record which is not on the record. his service book was not prepared. He was paid ₹ 250/- per month, 350/- in the next year. Any of the workmen have not produced appointment letters. Anand Swami filed affidavit of his evidence similar to above workman. In his cross-examination, he was unable to tell who issued appointment letter to him, he could not tell name of officer who issued appointment letter. He was appointed in cycle stand, the vacancies were published. He not submitted application in writing that he alongwith Jagdish, Rajendra, Pappu was interviewed. His medical examination was not conducted. Police has come for his verification. In his further cross-examination, he claimed ignorance whether Shri Mukesh was contractor of cycle stand. The monthly, quarterly, annual charges for cycle stand were fixed. He claims ignorance what claim is submitted by Union. It is submitted orally by Rakesh in individual capacity. The dispute is not raised by Union. Dhanraj in his cross-examination says that he was working for 8 ½ years on say of his father he reported on duty. He was appointed by Shri Negi Labour Officer. Appointment order was not received by him. The vehicles kept at stand, the charges were recovered. Tokens used to be deposited in the evening.

7. Evidence of management's witness Shri N.Narendra is supporting contentions of management that workmen were not appointed by IInd party. They were engaged by contractor Mukesh Trivedi. The charges for cycle stand were recovered from salary of the workmen. Evidence in cross-examination shows cycle stand in GCF is from 1991. Prior to it, the vehicles were kept in shed and there was no security guard. He claims ignorance who made appointments during 91 to 99 for employees at cycle stand. That the employees at cycle stand were to be appointed 50 % dependents of ex-employees and remaining 50 % from outside. The evidence on record is not clear that appointment of all the workmen was made by management of IInd party. Employer employee relationship is not established. There is no evidence that services of those workmen were terminated by IInd party. Though Ist party produced documents, no care is taken to prove those documents by adducing evidence.

8. Learned counsel for management Shri A.K.shashi relies on bunch of citations on ratio held on the point of

burden of proof lies on the workman to prove continuous working for more than 240 days.

In case of General manager (OSD) Bengal Nagpur Cotton Mills, Rajnandgaon versus Bharat Lal and another reported in 2011-I-LLJ-321(SC). Their Lordship held finding by Industrial Court that person concerned direct employee of cotton mills and not of contractor with it. Lord ship held not sustainable as twin tests for determining question of direct employment or through contractor held not satisfied."

In present case, employees are claiming to be directly appointed and not appointed by contractor. However evidence on record shows the employer employee relationship with IInd party is not established. Therefore ratio in above case cannot be applied to this case. Contractor is not impleaded as party in the present case. The workmen are not entitled to relief claimed by him. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The workmen are neither engaged nor terminated by IInd party.
- (2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/49/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-14012/05/1996-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/49/1997) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-14012/05/1996-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/49/97**

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ganesh Prasad Choudhary,
S/Shri R.Choudhary,
House No. 191,
Rajendr Nagar, Baba Tola,
Nai Basti, Jabalpur

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARDPassed on this 23rd day of September, 2014

1. As per letter dated 4-3-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-14012/5/96-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Gun Carriage Factory, Jabalpur is justified in terminating the services of Shri Ganesh Prasad Chaudhary? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim at Pages 3/1 to 3/9. Case of workman is that he was appointed as messenger on compassionate ground on 8-1-79 after death of his father. He was sincerely working for 4 years in establishment of IInd party. His service record was unblemished. Services of Ist party workman were terminated on 14-10-83. Its legality is challenged by workman on the ground that the enquiry conducted against him is illegal. He was granted opportunity for his defence. Principles of natural justice were violated. Chargesheet was served on him on 7-1-83. The allegations were false. Report was also submitted against him to police with false allegations. That he had not committed any misconduct alleged in chargesheet. That one Dukodi was not employee of IInd party had succeeded to enter factory premises with help of gate keeper. Workman was falsely involved for helping him to enter the factory premises. The allegations were also made about misappropriation of amount. Workman had requested management to supply relevant documents. Workman was not supplied documents on his request. Workman was prosecuted in criminal case. Workman had

requested to stay Enquiry Proceedings. He had challenged order of rejecting documents filing appeal. Workman had prayed for supplying enquiry report. His request was not considered. Enquiry was proceeded exparte against him. Workman has pleaded extensive reasons that enquiry conducted against him was vitiated on various grounds. As enquiry conducted against workman is found illegal vide order dated 14-9-01 by my predecessor, the details given by workman with this regard is not narrated.

3. Workman submits that he was issued show-cause notice without considering his contentions order of dismissal was passed by Disciplinary Authority dated 14-10-83. The termination of his services on the basis of illegal enquiry is liable to be set-aside. The appeal and review filed by workman were rejected without proper appreciation. The findings of Enquiry Officer are perverse.

4. Workman submits that he was prosecuted in criminal case 989/85. He was released on probation for a period of one year by Addnl.CGM, Jabalpur. That as per circular dated 30-8-71, a person convicted by court of law and released under the probation of offenders act are not liable to be removed or dismissed. Workman further submits that he is not gainfully employed. He could not get job any where. His family is suffering from hardship after his dismissal from service. On such ground, workman prays for his reinstatement with back wages.

5. IInd party filed Written Statement at pages 5/1 to 5/3. Claim of workman is denied outright. Management submits that workman was employed as messenger from 8-1-79 on compassionate grounds. On 1-12-1982 at 8.15 AM, Shri Dukodi Prasad resident of Nai basti, Jabalpur was caught within factory premises. Identity Card No. 2882/NIE was found in his possession. It was disclosed during investigation that said Identity Card was given to Shri Dukodi Prasad by workman after receiving ₹ 600/-. Workman had commenced to secure job for him in the factory. Shri Dukodi Prasad was entering factory premises alongwith workman. On 30-11-82, workman paid amount ₹ 151.22 to Dukodi Prasad and obtained his thumb impression in attendance register in security office. Workman was suspended from 2-12-1982. He was served with chargesheet on 7-3-83. FIR was lodged in police. That workman was informed about Enquiry proceedings but he failed to appear. Consequently enquiry was proceeded exparte. After receiving findings of Enquiry officer that charges against workman were proved, workman was removed from service. Appeal and review were rejected on 7-11-84, 22-12-86 respectively.

6. IInd party reiterates that enquiry was conducted against workman as per rules following principles of natural justice. If enquiry is found vitiated on any ground, management be permitted to prove misconduct in Court. The misconduct committed by workman is of serious

nature. Workman should not be allowed reinstatement. On such grounds, IInd party prays for rejection of claim.

7. Enquiry conducted against workman was found illegal by my predecessor by order dated 14-9-01. Management was permitted to prove misconduct in Court. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the management proves misconduct alleged against workman? | In Negative |
| (ii) whether punishment of removal form service imposed against workman is proper and legal? | In Negative |
| (iii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

8. After enquiry was found illegal by my predecessor, management was permitted to prove charges against workman. Management filed affidavit of Shri Pillai. However said witness wasnot made available for cross-examination. Management filed affidavit of witness Manmohan Singh, Asstt. Works Manager. He was cross-examined on commission. To be precise, management's witness says on 1-12-82 when he came on duty at 8.30 AM, Mr. Dilip Singh, Chargeman/ Security officer reported him that Dukodi Prasad was found in Security office with tiffin career. When he was questioned about his identity he had stated that he was working in Security office since last few months. Shri Dukodi Prasad was not in the strength of Security office nor he was seen working in security office. Shri Dilip Singh felt that either he was mentally unbalanced and belonged to some other section or there was some thing fishy about Dukodi Prasad. When he was produced before him on interrogation, Dukodi prasad said he was working in Security office since 1 ½ months. On checking witness found identity card token no. 2882/NIE tied at his button of his shirt. During interrogation he had disclosed that he was transferred along with Ganesh prasad in security office. When Ganesh prasad workman on interrogation disclosed that Shri Dukodi prasad was his brother in law, his sister was married to him. He had first time came inside factory brought his tiffin career. LDC Shri P.C.Jain had disclosed that on 30-11-82, while he was disbursing monthly salary Ganesh Prasad approached him for change of ₹ 100/- for giving some money to Shri Dukodi Prasad. On interrogation Shri Dukodi and Ganesh Prasad disclosed that workman had received ₹ 600/- from Shri Dukodi Prasad for securing employment. Since past two months,

workman had arranged Token No. 2882/NIE for Dukodi Prasad etc. On 30-11-82, workman had paid amount of ₹ 151.20. that workman Shri Ganesh Prasad concluded that he had to bring Shri Dukodi since past two months.

9. Management witness in his cross-examination says in 1982, he was working as foreman. He was dealing with work of security foreman of factory. He was not knowing employees assigned duties in the shift. In 1982, employees assigned duties in shift were given token. He was not maintaining record of token. It was maintained by other office. He admits that the information about token was not available with gate keeper. The employees given token numbers were allowed entry for their shift duties. When document No. ½, 3, 4 chargesheet were referred to the witness, he admits that Shri Dukodi Prasad was management's witness. Witness of management was unable to tell whether Token No. 2882 was given to workman by Shri Dukodi Prasad. Management's witness admits that chargesheet was issued to workman on the token number found with Dukodi Prasad. That witness had not seen Shri Dukodi Prasad enter in the factory. Witness said that he was acquainted with Shri Dukodi Prasad. The token number is lost. Matter is report to concerned section by the employee. Witness was unable to tell to whom Token No. 2882/NIE was issued.

10. As per evidence of management's witness Manmohan Singh, Dilip Singh had given information about Shri Dukodi Prasad found in Security Office. Said Dilip Singh is not examined Security Person who found Shri Dukodi Prasad are not examined. Even token no. found with Shri Dukodi Prasad is not produced. Shri Dukodi Prasad is not examined as witness in the case. The documents about recording confession or statement of workman are not produced by witness of the management. The evidence of management's witness on affidavit is submitted in 2011. The incident is of 1-12-1982 the argument were advanced by learned counsel for management Shri A.K.Shashi that age of witness is above 80 years minor infirmities are natural. However the material witnesses are not examined. The documents regarding interrogation of Shri Dukodi Prasad and confession of workman are not produced. The evidence of management's witness is not cogent to place reliance.

11. Workman filed affidavit of his evidence denying charges against him. In his cross-examination, workman says he is not acquainted with shri Dukodi Prasad. He denies that for more than one month before December 1982, he was taking Dukodi Prasad to the factory premises but he has no enmity with management's witness Manmohan Singh. Workman denied to have paid ₹ 600/- to Shri Dukodi Prasad.

12. From evidence of management's witness, the misconduct alleged against workman cannot be proved. He record of Enquiry proceedings was not produced,

secondly enquiry was held illegal. For above reasons, I record my finding in Point No.1 in Negative.

13. Point No.2- in view of my finding in Point No.1, charges against workman are not proved from evidence of management's witness punishment of dismissal imposed against workman cannot be sustained. The question arises whether workman is entitled for reinstatement with backwages. In statement of claim, workman has pleaded that in Criminal case, he was released on probation of Offenders Act copy of judgment by Criminal Court is produced Annexure B at Page 1/51. Shri Dukodi Prasad and workman were accused No.1,2 in criminal case. Both were convicted under Section 448, 303 of IPC. However there being first offender were released on probation.

14. Learned counsel for workman Shri Puranik submits that release on probation of Offenders act is not a bar for continuance in service. Chargesheet is issued to workman and disciplinary enquiry is conducted against him. The charge proved in criminal case is based on same facts and chargesheet issued to workman by Disciplinary Authority. The conviction of accused for offence under Section 448 of IPC is certainly a misconduct. Learned counsel for workman submits that workman be reinstated with back wages as charges are not proved by management. In present case, though charges against workman are not proved from evidence before this Tribunal, workman was convicted by Criminal court for offence.

15. On the point of reinstatement, learned counsel for management Shri A.K.Shashi submits that management has lost confidence in workman and his reinstatement may not be allowed. In support of above argument reliance is placed in case of Shriram Refrigeration Industries versus Industrial Tribunal cum Addl. Labour Court, Hyderabad and others reported in 2002(9)SCC 708. Their Lordship dealing with reinstatement/ compensation in lieu thereof only 3 years of service left and he was drawing ₹ 3045 per month, their Lordship in such circumstances allowed compensation ₹ 2,25,000/- in lieu of reinstatement. In present case, workman is convicted for offence under Section 403, 448 IPC by Criminal Court but he was released on probation. Said Offence was based on identical facts. Considering workman was appointed on compassionate ground in 8-1-79, very few year of service of workman must be left. Considering above aspects, instead of reinstatement compensation ₹ 3 Lakhs to workman would be appropriate relief. Accordingly I record my finding in Point No.2.

16. In the result, award is passed as under:-

(1) The action of the management of Gun Carriage Factory, Jabalpur in terminating the services of

Shri Ganesh Prasad Chaudhary is not legal and proper. Order of dismissal of workman dated 14-10-83 is set-aside.

(2) Instead of reinstatement, IInd party is directed to pay compensation ₹ 3 Lakhs to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर, डाकघर, बिलासपुर के अधीक्षक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 130/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/115/1995-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R 130/1996) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Office, Post Office, Bilaspur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/115/1995-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/130/96

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Jagdish Prasad Gupta,
R/o Village Sakari,
Mungeli Road,
Post Sakari,
Distt. Bilaspur (MP)

...Workman

Versus

Superintendent of Post Office,
Post Office,
Bilaspur.

...Management

AWARD

Passed on this 24th day of September 2014

1. As per letter dated 30-5-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/115/95-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 2/1 to 2/5. Case of Ist party workman is that he was engaged as casual workman on daily wages under IInd party No.4 on 16-5-87. He was granted minimum of pay scale of vehicle driver 950-1500 from 16-5-88. As per memorandum dated 6-6-88, he was continuously working from 16-5-87 to 23-1-90 he was eligible for regularization under the scheme framed by department as per directions given by Hon'ble Supreme Court. That his services were terminated without notice on 23-1-90 in controversion of Section 25-F of I.D. Act. Workman represented against termination order on 30-1-90, 12-2-90. He was re-engaged for different period from 8-3-90 to 8-2-94. Workman reiterates that his services are terminated on 23-1-90 in violation of Section 25-F of I.D.Act. He was not served notice. Retrenchment compensation was not paid. On such ground, he prayed for reinstatement.

3. IInd party filed Written Statement at Page 7/1 to 7/3. IInd party submits that workman was engaged on daily wages from 9-5-87 to 15-5-88. Again intermittently from 16-5-88 to 28-1-90 on account of execution of Bharatlal Driver. That the order engaging workman in daily wages provided his appointment till appointment of regular candidate. The discontinuation of workman is covered under Section 2(oo)(bb) of I.D.Act. After regular Driver, Shri B.K.Gaur was posted from Bilaspur Division, services of workman were not required. Therefore his services were dispensed with. Termination of service in violation of Section 25-F is denied. On such ground, IInd party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

5. Workman is challenging termination of his service from 23-1-90 for violation of Section 25-F of I.D. Act. Management had denied material contentions of workman. Workman filed affidavit of his evidence. Workman stated that he was engaged on daily wages on minimum scale ₹ 950-1500 from 16-2-88. He was continuously working till 23-1-90. Thereafter workman was re-engaged intermittently on daily wages till 8-2-94. In his cross-examination, workman has admitted his reengagement after order of his discontinuation from 23-1-90. Period of his engagement is stated in para-9 of his cross-examination. It is clear from his evidence that workman was re-engaged after termination of his services. He has given order of his discontinuation of his order dated 23-1-90. Document Exhibit W-1 appointment letter is clear that workman was appointed temporarily. His services were liable to be terminated. Workman was given understanding. Exhibit W-2 shows that documents of workman were called, Exhibit W-3 shows Shri R. K. Gond Driver was declared surplus in Jabalpur division and allotted to Bilaspur division and posted as Driver to Inspection Vehicle of Bilaspur Division. Thus Shri Gond surplus was appointed as regular employee. It was reason for termination of workman.

6. Evidence of management witness Shri B.L.Patel is on point that workman Jagdish was engaged as stop gap arrangement as casual labour on resignation submitted by Driver Bharatlal. His appointment was not made as per statutory rules. Shri R.K.Gond surplus employee was appointed therefore services of workmen were dispensed. In his cross-examination, management witness admits that before termination of service, showcause notice was served on workman, retrenchment compensation was not paid to him as he was working on daily wages. As appointment of workman was temporary, regular driver was appointed. His discontinuation is covered by Section 2(oo)(bb) of I.D.Act. therefore compliance of Section 25-F of I.D.Act is not required. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिवीजनल इंजीनियर, दूरसंचार परियोजना, रायपुर के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 18/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/46/1998-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R 18/1999) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Divisional Engineer, Telecom Project, Raipur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/46/1998-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/18/99

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Indro S/o Mummaru Gada,
Vill Ghatkachhar, PO Signora,
Tehsil Saraipali, Raipur.

...Workman

Versus

Divisional Engineer,
Telecom Project, 7,
Sahakari Marg II, Choubey Colony,
Raipur

...Management

AWARD

Passed on this 16th day of October 2014

1. As per letter dated 30-11-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/46/98/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist party workman is that he was in service of IInd party. He was appointed as employee by IInd party in 1986. He was discontinued from 16-2-88. He had completed 240 days continuous service. He was not served with notice, retrenchment compensation was not paid to him. His services are terminated in violation of Section 25-F of I.D. Act which amounts to victimization and unfair labour practice on part of IInd party. Workman prays for his reinstatement with back wages.

3. Written statement is filed at page 6/1 to 6/2 by IInd party. It is denied that workman was engaged by IInd party management DE Telecom Project, Raipur. According to IInd party workman was engaged by erstwhile DE Coaxial cable project, Raipur. There was no question of workman working more than 240 days in any of the year. There was no employer employee relationship. Workman was not terminated by IInd party. The petitioners in original application 17/91 before CAT, Jabalpur were different. Applicant cannot take advantage of order passed in said proceedings. On such ground, IInd party prays for rejection of claim.

4. Workman filed rejoinder at Page 7/1 to 7/2 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|----------------|
| (i) Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and justified? | In Affirmative |
|---|----------------|

- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

employers in relation to the management of the General Manager, Government Opium & Alkaloid Works and their workman, which was received by the Central Government on 18/11/2014.

[No. L-42012/168/1999-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/3/00

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Prakash
S/o Bapulal Sanghvi,
107, Dhan Mandi, Ratlam (MP) ...Workman

Versus

General Manager,
Govt. Opium & Alkaloid Works,
Neemuch ...Management

AWARD

Passed on this 15th day of October 2014

1. As per letter dated 21-12-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/168/99/IR(DU). The dispute under reference relates to:

“Whether the action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi is legal and justified? If not, to what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 3/1 to 3/8. Case of workman is that he was working as time keeper with IInd party No.2 at Neemuch from 7-10-79 after due selection. IInd party had published advertisement in newspaper dated 16-9-78 inviting application for two post of time keeper in pay scale of 216-400. One post was reserved for ST, one for Open Category. Workman had submitted application for post of time keeper. He was selected. After his selection, he was offered appointment by General Manager vide letter dated 29-9-79. Workman accepted said offer and joined service on 7-10-79. On 7-5-80, he was served with order of termination w.e.f. 5-5-90 without assigning any reason. He was not served showcause notice. The services were terminated without notice. Retrenchment compensation was not paid to him. Provisions of Section 25-F, N of

REASONS

6. Workman is challenging termination of his services for violation of Section 25-F of I.D.Act. However he failed to adduce evidence in support of his claim. Ordersheet dated 25-5-06 shows that management was served with notice. Case was fixed for cross-examination of workman by management. The right to cross-examine workman was closed. However order was passed on 2-2-06 that case shall proceed exparte. Affidavit of evidence of workman is not seen. Management filed affidavit of evidence of witness Shri R.R.Yadav. In his cross-examination, management's witness says workman was engaged as casual labour, he claims ignorance about documents maintained about working of workman. That workman had not completed 240 days continuous service. In absence of evidence of workman, it is difficult to uphold that workman had completed 240 days continuous service and termination of his services without notice without payment of retrenchment compensation cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, सरकारी अफीम और उपक्षार निर्माण के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/03/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/168/1999-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/03/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the

I.D.Act were violated. The termination of his service is in violation of Article 311 of the constitution.

3. Workman has narrated detail litigation which he resorted. He challenged termination before Labour Court Mandisor, W.P in High Court MP bench, Indore. That Industrial Court had granted stay to order of termination. He again joined service on 29-10-81 to work till 18-12-81. His stay was vacated. Workman has filed petition before CAT, Jabalpur. As per directions passed by High Court, CAT, Jabalpur conciliation proceedings were filed before ALC, the dispute has been referred. Workman submits that he was appointed after following selection process, advertisement. The post was not reserved in the advertisement. The post on which he was appointed was of open category. There was one post. There cannot be 100 % reservation. The appointment of workman was on vacant post. He was selected after competition. His services were terminated by lower authority. He was served notice under Section 25-F. Pay in lieu of notice was not paid to him. He was also paid retrenchment compensation. That principles of last come first go was not followed. Termination of his service is violatory of Article 16(1) of the constitution. Workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 6/1 to 6/11. Case of IInd party is that 2 post of time keeper were sanctioned in IInd party. Those posts were filled on temporary basis from candidates out of panel drawn by selection board in 1979. After sometime one of the candidates appointed Nand Kishore resigned from post of time keeper on family ground. His resignation was accepted by authorities. The vacancy caused was for SC. Workman from open category was available. Name of workman was at Sl. No.3 of panel. To fill up vacancies of time keeper, workman was temporarily appointed on adhoc basis as per order dated 29-9-79. Workman had accepted conditions in appointment order and joined duties. The vacancy arose on resignation submitted by Shri Nandkishore was published in newspaper on 15-10-79 on completion of recruitment process and availability of suitable candidate, the services of workman were terminated.

5. IInd party has also narrated details of the litigation resorted by the workman, termination order was challenged before Jabalpur. Review was filed in Industrial Court. WP filed in High Court, matters were remanded and again Labour Court decided the matter observing that Labour court has no jurisdiction. Remedy under Section 10 of I.D.Act was appropriate. IInd party submits that dispute is raised after delay of 18 years. Workman had chosen wrong forum including petition filed before CAT. Orders were passed that remedy to workman could be resorted under Section 10 of I.D.Act. workman was temporarily appointed as per conditions in appointment

order, his services were terminated. Workman is not entitled to protection under Section 25-F of I.D.Act. Action of the management is legal.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---|
| (i) whether the action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any reliefs. |

REASONS

7. Ist party workman approached courts for retention against order of his termination. However the proceedings were not filed before Competent Court. The disputes has been raised after lapse of 18 years only for the reason that workman was prosecuting proceedings before other forums. Workman died during pendency on 11-1-2001. His L Rs. are brought on record. Affidavit of evidence is filed by his widow Raj Kumar Sanvi and other LR's in support of application for substituting LR's. However no evidence is adduced on behalf of deceased workman or his LR's. The evidence of workman is closed on 1-6-2010. Management also failed to adduce evidence. Evidence of management is closed on 6-5-2014. The parties donot participate in reference proceeding. It is matter of pain that the deceased workman did not get any fruits during his life time for the reasons that he prosecuted proceedings before wrong forums. For absence of evidence in support of claim of workman, I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi is proper and legal.
- (2) Workman is not entitled to any relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2978.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिवीजनल इंजीनियर, दूरसंचार परियोजना, रायपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/214/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/19/1998-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/214/1998) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Divisional Engineer, Telecom Project, Raipur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/19/1998-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/214/98

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Banshi Gopal,
S/o Shri Godno,
Village Ghatkachhar,
PO Sighora, Tehsil Saraipali,
Raipur

...Workman

Versus

Divisional Engineer,
Telecom Project,
7, Sahakari Marg-II,
Choubey Colony, Raipur

...Management

AWARD

Passed on this 16th day of October, 2014

1. As per letter dated 10-9-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-40012/19/98-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the service of Shri Banshi Gopal son of Shri Godno Ex. Mazdoor is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986 by IInd party. His services were discontinued from 16-2-88. He completed 240 days continuous service in 1986-87. He raised dispute before ALC. It is reiterated that he was not served notice of termination, retrenchment compensation was not paid to him. Termination of his service is in violation of Section 25. On such ground he prays for his reinstatement with back wages.

3. IInd party filed Written Statement at page 6/1 to 6/2 denying claim of Ist party workman. It is submitted that workman was not appointed by management, he was not engaged by DE Telecom Project, Raipur. Workman was engaged by DE Coaxial Copper Project Raipur which was wound up on 31-3-91. It is further submitted that workman was engaged on muster roll on daily basis, retention period of muster roll is 5 years therefore it is difficult to comment about engagement and discontinuation of workman. The dispute is raised after 12 months for reinstatement by management. Workman was engaged purely on temporary basis. There was no question of termination of his service. Workman is not entitled to one month's notice or pay in lieu of notice. Violation of Section 25-F of I.D.Act is denied. It is further submitted that in O.A.71/91, 96/90 CAT Jabalpur order pertains to the applicants. Workman is not entitled to get any benefit.

4. Ist party filed rejoinder at page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | | |
|------|---|---|
| (i) | Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the service of Shri Banshi Gopal Son of Shri Godno Ex. Mazdoor is legal and justified? | Workman is neither engaged or terminated by IInd party. |
| (ii) | If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. Workman is challenging termination of his service for violation of section 25-F of I.D.Act. He filed affidavit in support of his claim submitting that he was engaged in 1986 as mazdoor. He was continuously working till 31-12-90. He completed 240 days continuous service.

Workman in his cross-examination says he was working in co-axial project of Telecom Department. Appointment letter was not given to him. He denies suggestion that he not completed 240 days continuous service. Management filed affidavit of witness Shri R.R.Yadav. Witness of management has covered contentions in Written Statement that he was engaged by East DE Coaxial Project. The witness of management was not cross-examined. Workman in his cross-examination has admitted that he was working in coaxial project. As such employee employer relationship is not established between parties. Termination of services of workman with IInd party is not established. Accordingly I record my finding in Point No.1.

7. **Point No.2—** In view of my finding in Point No.1 employer employee relationship between parties is not established. Termination of service of workman is also established. Therefore workman is not entitled to any relief. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:-

(1) Employer employee relationship and termination of Ist party workman by management is not established.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2979.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार जिला अभियंता, टीडीई राजगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/17/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/277/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/17/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom District Engineer, TDE Rajgarh and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/277/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/17/2002

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Gopal,
S/o Shri Mansingh
R/o Vill: Moya,
Tehsil Biaora, Rajgarh ...Workman

Versus

Telecom District Engineer,
O/o TDE Rajgarh,
At Biaora, Rajgarh ...Management

AWARD

Passed on this 24th day of September, 2014

1. As per letter dated 3-1-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/277/2001-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Engineer, Rajgarh in terminating the services of Shri Gopal S/o Shri Mansingh w.e.f. January, 97 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 1 to ½. Case of workman is that he was working at telephone Office, District Rajgarh from 1987 to 1992 as Mazdoor Category I on muster roll. After muster roll were discontinued, his wages were paid under vouchers. His service were orally terminated without notice. On such ground, he prays for reinstatement.

3. IInd party filed Written Statement. IInd party submits that workman was individually engaged on muster roll of management of IInd party. He not completed 240 days continuous service. In June 1991, workman worked for 30 days, July-31 days. The services of workman were not required. Workman is not entitled for reinstatement or regularization.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the In Affirmative management of Telecom District Engineer, Rajgarh in terminating the

services of Shri Gopal
S/o Shri Mansingh w.e.f.
January, 97 is justified?

- (ii) If not, what relief the Workman is not
workman is entitled to?" entitled to any relief.

REASONS

5. Though workman raised dispute and filed statement of claim, he failed to participate in reference proceeding. Workman has not adduced evidence in support of his claim. Reference is proceeded exparte on 30-1-2012.

6. Management filed affidavit of witness Shri Ramjani Khan. Management witness submits that workman has not completed 240 days service. Workman worked for 30 days in June, 91 and 31 days in July 91. His evidence remained unchallenged. I find no reason to disbelieve evidence of management. There is no evidence of workman to substantiate his claim. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Telecom District Engineer, Rajgarh in terminating the services of Shri Gopal S/o Shri Mansingh w.e.f. January, 97 is legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2980.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 213/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-41015/03/1998-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 213/1999) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the Central Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41015/03/1998-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/213/1999

PRESIDING OFFICER: SHRI R. B. PATLE

Shri Anil Kumar Sharma,
C/o Shri Tulsi Singh Thakur,
Behind SI Quarters,
Police Station Ghamapur,
Kanchghar, Jabalpur ...Workman

Versus

Divisional Railway Manager,
Central Railway,
Bhopal (MP) ...Management

AWARD

Passed on this 13th day of September, 2014

1. As per letter dated 19-5-1999 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41015/03/1998-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19.01.1987 is justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that he was monthly rated Khalasi in scale 250-940 working in IInd party No.4. That IInd party No.2 merged in I/d party no.3 under control of IInd party No. 1. workman submits that he was continuously working from 1985 to 1987. He had acquired status of temporary employee. That he could not be terminated without compliance of Rule-9 of Discipline Appeal Rules 1968. That he was medically examined and found fit for regular job. IInd party No.4 issued notice dated 3-1-87. His services were terminated from 19-1-87 in violation of Section 25-F of I.D. Act, Rule-9 Discipline Appeal Rules 1968. Workman submits that termination of his service is illegal. Workman approached ALC Bhopal for redressal. Workman submits that termination of his service is also void for violation of Article 311 of the constitution. That only after directions issued by Hon'ble High Court in writ petition 4560/98, the reference has been made. On such ground, workman is praying for reinstatement with back wages.

3. IInd party submitted Written Statement at Page 8/1 to 8/3. It is submitted that workman had worked as monthly rated casual labor. He fraudulently entered in

Railway service producing casual labour service card in 1987. Notice in prescribed form was issued to workman by Competent Authority. Workman did not reply to the notice instead workman did not turn up for duties. Rule-9 of Discipline Appeal Rules 1968 is not attracted in the matter of workman. IInd party submits that at relevant time, workman was working under PWI(B) at Bhusawal division and not Bhopal Division. That notice was served upon workman. He did not submit any explanation to the notice. Workman had no defence to submit. Workman kept silence for long time. Workman was happy with his fraudulent act. Ist party workman secured appointment on basis of fake casual labour service card. He had absconded himself not giving reply to the notice. On such ground, IInd party prayed for rejection of the claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19-1-87 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. Workman has challenged termination of his service for violation of Section 25-F of I.D. Act, Article 311 of constitution of India. He submits that no enquiry was conducted against him against Rule 9 of Discipline Rule 1968. Above contentions of workman are denied. IInd party did not deny workman was working with IInd party No. 4 as monthly rated Khalasi. IInd party has pleaded that workman had secured employment producing bogus casual labour service card. Notice was issued to him. No reply was given instead workman remained absconding. Affidavit of evidence is filed by workman reiterating his contentions in statement of claim that he was working as casual labour with IInd party from 1985 to 1987. The services were terminated in violation of section 25-F, Article 311 of constitution. No enquiry was conducted against him. In his cross-examination, workman denies that card submitted by him was bogus. He denies receipt of notice during absconding period. That he had not left his job. Rather he was discontinued by IInd part. In his further cross-examination, workman says he was working as temporary employee. He was receiving wages for his working days. Subsequently he received notice. He had not given reply to the notice. Suggestion of IInd party

that card produced by him was bogus is denied. The documents produced by workman Exhibit W-1 shows that workman had approached for redressal before CAT Jabalpur. Workman was given liberty to approach before Tribunal. Exhibit W-2 is copy of order of reference. The reference was directed only after direction issued by Hon'ble High Court in Writ Petition. IInd party filed affidavit of evidence of Shri Bharat Bhushan Sharma. The witness of management says that Service Card submitted by workman was found bogus. Workman was given notice. No reply is filed by workman, he had absconded. In his cross-examination, management's witness says in 1984, he was not working at Satna. He brought original documents but any documents are not produced. No notice was given to workman in that regard. The documents about workman was absconding are not available in the office. In his further cross-examination, management's witness says service record of workman was found bogus as name of workman was not found in LHTI register. That showcause notice was not issued to workman after receiving report. He was not Enquiry Officer. When service card was issued to workman, he was not posted at Satna, rather he never worked at Railway Division, Satna.

6. Management witness Shri Ashok Kashvi in his affidavit of evidence says service card produced by workman was bogus as per order dated 8-1-87. In his cross-examination, management's witness says in 1987, he was not posted in Railway Electrification Project. He received attendance register from PWI Harda. Railway Electrification Project had ended. The witness of management was working in section. When service card was issued to workman he was not in Railway Service. Management's witness further says termination order was issued to workman. Any other proceeding initiated against workman is not available. Termination dated 3-1-87 was issued by (PWI was not known to him. That had not seen signature of PWI arher at any time. Document Exhibit M-1 is letter dated 8-1-87 issued by PWI informing that service cards of Ist party workman Anil Kumar Sharma and others were not issued by his office. In Exhibit W-2 attendance register workman is shown absent from duty and ultimately terminated .

7. Service card alleged to have been submitted by Ist party workman is not produced on record, even showcause notice issued to workman is not produced on record. management of IInd party is alleging that service card produced by workman was found fake/ bogus. Absolutely no evidence is adduced by IInd party as to who had found service card submitted by workman was bogus. In absence of such evidence, contentions of management cannot be accepted. Services of Ist party workman are terminated on ground that service card produced by him was bogus. In that regard, contentions are not substantiated by evidence. Both witnesses of

management were not working at relevant time. They have not seen service card produced by workman. They have not decided that the service card was bogus. Therefore the action of termination of services of workman cannot be said legal. For above reasons, I record my finding in Point No.1 in Negative.

8. Point No.2- In view of my finding in Point No.1 termination of services of workman is not legal, question arises whether workman is entitled for reinstatement with full back wages. Workman was terminated from service long back in 1988. His evidence is silent how he is maintaining himself and his family. No evidence is also adduced by IInd party about 1st party workman is in gainful employment. Considering above aspects, workman cannot be allowed reinstatement with full back wages. In my considered view, reinstatement with 20 % back wages would be appropriate. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19-1-87 is illegal.
- (2) IInd party is directed to reinstate workman with continuity of service and 20 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2981.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 198/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/345/(ए)/1997-आईआर (बी.-I)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2981.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 198/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/345/(A)/1997-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/198/98

PRESIDING OFFICER: SHRIR. B. PATLE

Dy. General Secretary,
State Bank of India workers Union,
Bhopal Circle, C/o SBI,
Jaistambh Chowk,
Raipur (MP) ...Workman/Union

Versus

Asstt. General Manager,
Region-V, State Bank of India,
Zonal Office, Shanka Nagar,
Raipur ...Management

AWARD

Passed on this 28th day of October 2014

1. As per letter dated 20-8-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/345(A)/97-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of India in removing Shri G. K. Gurdwan, Ex-Cashier-cum-clerk from Bank's services with effect from 25-6-96 vide order no. Area/5/C/111 dated 25-6-96 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to parties. Statement of claim is submitted by General Secretary of Bank employees Union. Case of 1st party Union is that it is registered under Trade Union Act 1926. Shri G.K. Gurdwan- employee was its member. Chargesheet was issued by IInd party on 1-8-95 to above said employee. Employee was its member. Chargesheet was issued by IInd party on 1-8-95 to above said employee. Enquiry was illegally conducted against him. Workman was not supplied copies of documents. Employee was unable to submit his clear reply. Enquiry was conducted illegally. Finding of illegal enquiry based on contradictory evidence. The punishment of dismissal was imposed. Order of dismissal is illegal. The appeal preferred by workman against order of dismissal was rejected. The dismissal order is illegal. On such ground, Union prays for reinstatement of workman with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 7/16. Case of IInd party is that employee Shri G. K. Gurdwan was

posted as cashier cum clerk at Akaltara branch of SBI on 22-2-95. One Rajaram Sharma handed over amount of ₹ 43,200/- to workman for depositing the said amount in SB Account No. 3240. That workman did not deposit said amount. He made fictitious credit entries in SB Account of Shri Rajaram Sharma. The entries were also made in ledger book. Chargesheet was issued to workman. Workman had admitted receipt of amount from Shri Rajaram Sharma. That defence of the employee was that he forgot to deposit amount in his account. Preliminary enquiry was conducted by Manager, State Bank of India, Region-V, Nagpur. It was found that entries were taken in Bank pass book of Shri Rajaram by the employee, amount was not deposited in his account. After issuing chargesheet, enquiry was conducted. Full opportunity for defence of the delinquent was given. The documents demanded by workman were submitted to him. After receiving report of Enquiry Officer, its copy was served on delinquent employee vide letter dated 10-4-96, employee submitted his reply. Considering gravity of the charge proved after finding of Enquiry Officer, punishment of dismissal from service was imposed. Appeal preferred by employee was dismissed. IInd party submits that punishment of dismissal against workman is proper and legal. It is reiterated that the enquiry is conducted against workman as per rules. order of dismissal does not suffer from any kind of illegality. Claim of workman is not tenable.

4. As per order dated 2-8-2013, enquiry conducted against workman is found legal and proper. Case was fixed for evidence on other issues. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---|
| (i) Whether the misconduct alleged against workman is proved from evidence In Enquiry proceedings? | In Affirmative |
| (ii) whether punishment of removal from service imposed against workman is legal and proper? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | 1st party is not entitled to any relief |

REASONS

5. As stated above, enquiry is found legal and proper. The question remains for decision whether charges alleged against workman are proved from evidence in Enquiry Proceedings? Workman has not adduced any evidence on other issues. The statement of management's witness Rajaram at Page 27 of the Enquiry Proceedings shows that he had handed over amount of ₹ 42,450 to the employee for depositing in SB Account 3240. Amount was not

deposited in his account. When he had gone to Bank on 27-3-95 for withdrawal of ₹ 46,300/-, he was told that amount was not in his account. The amount of ₹ 42,450/- handed over to Shri G. K. Gurudwan was not deposited in his account. The evidence of Shri Rajaram Sharma is recorded in detail. In Enquiry proceedings, his evidence on material points is not shattered by cross-examination. The evidence of management's witness Rajaram Sharma proves charge alleged against workman. For above reasons, I record my finding in Point No.1 in Affirmative.

6. Point No.2 the punishment of removal from service is imposed against workman. After receiving findings of Enquiry officer, that charges against workman are proved enquiry conducted against workman is found proper and legal. Charges against workman relates to receiving amount of ₹ 42,450/- for depositing in account of Shri Rajaram Sharma. Workman did not deposit said amount. However he had taken entry of said amount in pass book and ledger. The proved misconduct of workman is of serious nature. Conduct of employee working as clerk cum cashier receiving amount for depositing in SB Account of Rajaram and not depositing it in his account for taking entries of said amount in pass book and Bank ledger is serious misconduct. The punishment of removal from service imposed by IInd party does not call for interference. At the same time, I am also mentioning that the Union/workman has not adduced any evidence on other issues. Therefore also there is no reason to interfere with the order of removal from service. For above reasons, I record my finding in Point No.2 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of State Bank of India in removing Shri G.K.Gurdwan, Ex-Cashier cum clerk from Bank's services with effect from 25-6-96 vide order no. Area/5/C/111 dated 25-6-96 is legal and proper.
- (2) Union/workman is not entitled to any relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर मर्जड एज भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 153/02) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/452/2001-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 153/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of Indore Merged as State Bank of India and their workman, received by the Central Government on 18/11/2014.

[No. L-12012/452/2001-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/153/02

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain

...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Merged as State Bank of India
Local Head Office
Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 15th day of October 2014

1. As per letter dated 7-11-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/452/2001-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11-12-98 and not regularizing him is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/7. Case of workman is that he was working as messenger from 2-5-91 as per oral order of IInd party. He was working with devotion. That on 17-11-87, settlement

was arrived between management of the Banks and all India State Bank of India Staff Corporation. For absorption of temporary messengers working for 30/70 days during the period 1-7-75 to 18-8-95, the applications of eligible candidates were called. Workman submits that he had worked for 84 days from 14-8-91 as per above settlement. He is eligible for absorption. On his application, he was called for interview on 19-2-97. He was continuously working on the post of messenger. He was paid salary from IInd party. On 11-12-98 Sr. Manager Shri S. K. Arya, called him and served order of his termination regretting that he was working since 1991. His services are terminated without paying retrenchment compensation. Workman submits that he raised dispute before ALC Bhopal and dispute has been referred.

3. Workman further submits that he was paid bonus under Section 8 of Bonus Act for the period 2-5-91 to 11-12-90. Workman submits that for 1675 working days, he was paid bonus of ₹ 4314/- on 8-8-01. That he worked more than 300 days in every year and total for 2100 days. Workman had worked for 84 days from 14-8-91. He claims to be eligible for absorption as per settlement dated 17-11-87. Workman was paid wages ₹ 22 to 48 per day. His services are terminated illegally. Instead of regularization of services IInd party is punishable under Section 29 of I.D. Act. Workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at page 9/1 to 9/13. IInd party submits that Shri Ram Nagwanshi dismissed employee of State Bank of Indore is not competent to represent the workman. Workman had worked for 84 days from May 91 to August 91. Thereafter workman was engaged purely as daily rated contractual employee. During 1992 to 1998, workman worked for 1684 days. He was paid retrenchment compensation ₹ 6480/- in compliance of Section 25-F of I.D. Act. It is reiterated that workman was engaged purely on contract basis. His duties were ending at end of the day. His discontinuation is not covered as retrenchment under Section 2(o) of I.D. Act. It is squarely covered under Section 2(o)(bb) of I.D. Act.

5. IInd party further submits that elaborate conciliation proceeding is involved out of agreement entered between Bank Staff Federation. It provides opportunity for absorption of temporary casual workers for permanent appointment. The agreements are entered with staff association on 17-11-87, 16-7-88, 28-10-88, 9-9-91 as per above agreement, employees were called for interview. He was discontinued after 1-7-75 to 31-7-80. In consultation with management and staff federation, said period was extended till 14-8-91. He was daily wage employees. They were given chance for appointment as permanent employees. As per terms of bipartite settlement management have only awarded temporary services from

empanelled candidates. Ist party employee was continued to casual vacancies as per the settlement. The panel was kept alive till March 1997. It is reiterated that workman was paid retrenchment compensation ₹ 6480/-. All adverse contentions of workman have been denied. that workman worked only for 89 days till cut off dated 14-8-91. Workman was at low level of selected candidates. He could not be absorbed in permanent service. IInd party had advertised in newspaper calling applications in prescribed format as per the settlements. Workman had submitted application on 7-9-91 for permanent absorption. He was called for interview on 19-4-97. Workman was not found suitable for permanent employment. Therefore workman could not be absorbed.

6. IInd party further submits that as per settlement the panel was required to be kept alive till March 1997 so that opportunity for permanent employment can be given to such candidates against available vacancies. The related settlement dated 30-7-96, 20-2-97 between management and staff federation 1st party workman discontinued in retrenchment compensation. Violation of Section 25-F, G of I.D.Act is denied. It is reiterated that workman was discontinued paying retrenchment compensation. Workman was found not suitable for absorption. On all such contentions, IInd party prays for rejection of claim.

7. Workman filed rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--------------------|
| (i) Whether the action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11.12.1998 and not regularizing him is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

9. The terms of reference includes legality of termination of workman and denial of regularization. There is no dispute between parties that workman had worked for 84 days till cut off date i.e. 11-8-91. The pleadings of parties shows that retrenchment compensation ₹ 6480/- was paid to the workman. The agreement between Bank management and staff federation are not disputed. The copy of agreement dated 26.07.88 is produced at Exhibit M-1. Relevant clause at Page 3 provides - temporary

employees should have worked in the bank on regular scale wage part time or full time between 1-7-75 and 31-7-88 and put in the above stipulated period of temporary service. The aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at any one or more offices. Clause VI of the agreement regarding existing waiting list provides the waiting list prepared after completion of interviews of the temporary employees in subordinate cadre who have completed 90 days of service and above as on 31st October 1984 has not yet been exhausted, it will be valid upto 31-7-88 and vacancies arising up should be filled from this panel. Exhibit M-2 Circular No. 32 was forwarded along with the letter. Bipartite agreement dated 27-10-88, 9-1-99 guidelines issued for implementation. Category "C" provides that those who have completed minimum 30 days aggregate after 1-7-75 or minimum of 78 days aggregate temporary service in any continuous block of 36 calendar months during 1-7-75 to 31-8-88 are eligible for chance for permanent appointment in Bank service. Workman in present case as per plea was not working in Bank till 1988. Workman had worked 84 days prior to cut off date 11-8-91. Exhibit M-4 settlement dated 9-1-91 provides that clause I of settlement dated 17-11-87 was modified and substituted in the year 1992 to 1994. Reading of Exhibit M-4 at Page 51 shows that looking to the enormity of the problem and in view of the currency period of panels now being extended upto 1994, clause (d) provides if the panels of temporary employees in a circle are exhausted before December 1994, the panels of daily wagers available there at will become operative and will be used for filling up the remaining vacancies and those arising upto December 1996. Exhibit M-5 is copy of settlement dated 25-2-97. It clearly provide that settlement dated 17-11-87, 16-7-88, 27-10-88, 9-1-91 30-6-96 be complied. The eligibility of working period during 1975 to 88 is not modified in any of the bipartite settlements. Exhibit M-6 is copy of select list of 1997 name of workman is not included. Keeping above aspects in view I proceed to deal with evidence on record. workman in his affidavit of evidence has stated that he was working as messenger on daily wages from 2-5-91. He was paid wages ₹ 20/- per day. He was working till 14-8-91. That as per settlement employee working for 30-70 days are eligible for absorption. He received interview call on 19-2-97. That he completed more than 240 days continuous service from 2-5-91 to 11-12-98. His services were terminated without notice. Retrenchment compensation was not paid. He was paid bonus ₹ 4314/- on 8-8-01. After termination of his services, he was not called for work. Workman in his cross-examination says he was working in Bank from 2-5-91 to December 98. He was doing work of depositing form receipts. He was serving drinking water. He admits retrenchment compensation was paid to him. He was called for interview.

10. Management's witness Smt. Nirupa Joshi supported contentions of management in Written Statement that earlier employees working during the period 1-7-75 to 31-7-88 were considered for absorption. Said period was extended till 14-8-91. Workman was called for interview on 19-2-97. He had worked for 84 days till 14-8-91. He was not selected for absorption. Workman was paid retrenchment compensation ₹ 6480 as per section 25-F of I.D.Act. she says contract about engagement of workman is not produced on record. she was unable to tell what process was followed before engaging workman. She claims ignorance whether his name was sponsored through Employment Exchange. She claims ignorance whether test or interview was taken before workman was engaged. Workman was not given appointment letter. Muster roll was not available. Workman was paid one months retrenchment compensation before his termination. List of retrenched employees was not displayed on notice board.

Section 25-G of I.D.Act provides-

"Where any workman in an industrial establishment, who is a citizen of India is to be retrenched and he belongs to a particular category of workmen in that establishment in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

Rule 77 provide-

Employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment atleast seven days before the actual date of retrenchment."

11. The evidence of management's witness clearly shows Section 25-G & Rule 77 are not followed. List of daily wage employees were not displayed on notice board. Therefore retrenchment of workman is illegal for violation of above provisions.

12. Learned counsel for IInd party Shri V.P . Khare relied on ratio held in

Case of State of Karnataka and others versus M. L. Kesari and others reported in 2010((SCC 247) . their Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I.D. Act.

Next reliance is placed in ratio held in

Case of Allahabad Bank versus Shri Prem Singh reported in 11 (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wage stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wage had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

13. Shri Ram Nagwanshi Union representative submitted copies of award in R/180100, 4/07, 105/02,27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence.

14. The evidence clearly shows that workman was not working prior to 31-7-88 rather he worked for 84 days between 2-5-91 to 14-8-91. Said working period is not covered as eligibility period as per settlement of 1987 discussed above. However for violation of Section 25-G, Rule 77, retrenchment of workman is illegal. For above reasons, I record my finding in Point No.1 in Negative.

15. Point No.2- In view of my finding in Point No.1, retrenchment of workman is illegal for violation of Section 25-G, Rule 77, question arises whether workman is entitled for reinstatement/regularization of his services. Workman was not appointed following recruitment process. He is not eligible for absorption as per settlement of 1987, 88, 91 etc. as he did not work during period of eligibility, therefore workman is not entitled to benefit for absorption of his service. However the retrenchment of workman is in violation of Section 25-G, Rule 77. Workman was paid retrenchment compensation ₹ 6480/-. One month's pay in lieu of notice was paid to workman. Considering above aspects as retrenchment of workman is found illegal for violation of Rule- 77, appropriate compensation to workman would meet the ends of justice. Considering length of working of workman from May 91 to 11-12-98,

compensation ₹ 2 Lakhs would be appropriate. Accordingly I record my finding in Point No. 2.

16. In the result, award is passed as under:-

- (1) The action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11-12-98 and not regularizing him is not proper and legal.
- (2) IInd party is directed to pay compensation ₹ 2 Lakhs to the workman.

Amount as per above order shall be paid to workman within two months from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2983.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 84/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/480/2001-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 84/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/480/2001-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/84/02

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary, ...Workman/Union
Daily wages Bank Employees
Association,
9, Sanwer Road, Ujjain (MP)

Versus

Asstt. General Manager,
State Bank of India, Zonal Office,
Hamidia Road, Bhopal (MP) ...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 28-5-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act., 1947 as per Notification No.L-12012/480/2001-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Statement of claim is filed by workman at Page 2/4 to 2/11. Case of Ist party workman is that he was orally engaged by Branch Manager andelwal at Main branch of SBI from 20-10-81 to 15-2-82 as messenger. He worked with devotion. His name was included in panel prepared for absorption. He was called for interview on 17-8-85. As per settlement dated 17-11-87 between management and Union, he is entitled for absorption as permanent employee. He had worked for 70 days during 1-7-75 to 31-7-88. On 11-8-91, he was called in Head office of the Bank at Indore and informed that his name was received from Bhopal. He further submits that since 12-8-91, he worked more than 240 days without any grievance. He was sent on deputation with luggage by General Manager on 3-8-96. Again he was sent with luggage by Asstt. General Manager, Bhopal. He suffered illness. He was treated by Dr. Subhash Sharma. Workman reiterates that he worked more than 240 days every year since 12-8-91 till May 1997, he was terminated without notice, retrenchment compensation was not paid to him. His representations were not responded. Junior employees Mukesh and others were paid retrenchment compensation. Workman was not paid retrenchment compensation.

3. Workman submits that he had submitted representations for payment of bonus. He had worked continuously till 31-5-97. He was paid bonus of ₹ 2665 assuming his working days were 1235. Infact he worked 1614 days. He was paid wages for all those working days. Workman reiterates that his services were terminated without notice without paying retrenchment compensation. Principles of last come first go was not followed. His termination is in violation of Section 25-F,

G of I.D.Act. He was not re-employed. Bank employed other persons after his termination. Thus IInd party violated Section 25-F of ID.Act. On such ground he prays for reinstatement/regularization.

4. IInd party submitted Written Statement at page 6/1 to 6/11. Objection is raised that so called General Secretary of Union Ram Nagwanshi dismissed employee is not competent to represent workman. Workman was employed purely on daily wages as messenger. He worked for 83 days during 20-10-81 to 15-2-82. Dispute raised by workman is referred for adjudication.

5. IInd party submits that workman was casually engaged on daily wages. His discontinuation is not covered as retrenchment under Section 2(oo) rather is engaged on daily wages. His service came to end at every day at end of the day. His discontinuation is covered under Section 2(oo) (bb) of I.D.Act. IInd party is given details of working days of workman in Para-5. It is contented that preceding discontinuation of workman he had not completed 240 days service. He is not entitled to protection under Section 25-F of I.D.Act. temporary employees working during the period 1-7-75 to 31-7-88 were eligible for conciliation. IInd party had given advertisement alling applications in prescribed proformas from daily rated employees/ casual workers. Workman had submitted his application claiming work for 83 days. Workman could not be absorbed by the Bank as his working days before cut off date 14-8-91 were at low level.

6. It is further submitted that Ist party employee was appointed purely on daily wages as messenger. That he was called for interview as per the settlement on 12-8-89. Workman had not completed 240 days continuous service during any of the calendar year. Workman was paid bonus ₹ 2665/- on 23-8-01. Workman was engaged for work of hammal. He cannot be said employee of the Bank. Violation of Section 25-F, G, H is denied. All other adverse contentions of workman are denied. IInd party prayed for rejection of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

8. Before dealing with evidence of parties, documentary evidence needs to be considered. Exhibit W -1 is certificate issued by Bank about 83 working days of workman during 20-10-81 to 15-2-80. Exhibit W -2 is letter calling workman for interview for post of messenger. Exhibit W-3 is notice calling explanations of temporary casual employees for absorption as permanent employees as per settlement dated 31-7-88. The said document is clear that employees working 70 days during 36 calendar months between 1-7-75 to 31-7-88. Exhibit W-4 is letter for calling interview dated 10-9-99. Exhibit W-5 is also letter for interview issued in 1997. Exhibit W-6 is letter issued by Dy. General manager referring that the workman was claiming 83 days working during the cut off period. Exhibit W - 7 is copy of rejoinder submitted before ALC. Exhibit W-8 is application submitted by workman stating that he was working from 12-8-91 to 10-8-98. He was paid ₹ 48/- per day. Exhibit W-9 is copy of cheque for payment of bonus amount ₹ 2665. Exhibit W-10 is letter issued by Shri Ram Nagwanshi Union representative requesting documents regarding payment of bonus. Exhibit W-11 is letter given by Dy.General Manager about claim of Ist party workman. He was not paid retrenchment compensation. Exhibit W-2 is copy of application submitted before ALC, Bhopal relating to denial of bonus payment of ₹ 2665/- Exhibit W-13 is letter issued by Asstt. General Manager to the branch offices. Said letter finds reference that for the candidates in select list, there was no specific period of their working. Exhibit W-14 is letter issued by Asstt. General Manager dated 12-12-02. The details of monthwise and year wise temporary daily wages service in each case was called. Exhibit W-15 is letter issued by Chief Manager shows working days of workman as shown III Written Statement. Exhibit W-17 to 29 shows details of working days and payment of wages to workman.

9. Workman has filed affidavit of his evidence that he worked for 83 days during 12-10-81 to 15-2-82. On 17-8-85, he was called for interview for absorption. Again he was called for interview on 12-8-89. He was engaged as messenger from 12-8-91. He was continuously working till June 97. He worked more than 240 days during each of the year. In his cross-examination, workman says he was called for interview as per settlement between Union. He was interviewed as per Exhibit W-4. He had asked payment of bonus as per Exhibit W-4. Bonus was paid as per Exhibit W -9. He was paid wages every day from petty cash. After interview in 1989, his name was included in waiting list. He was doing every kind of work. Evidence of workman about his working is not shattered in his cross-examination.

10. Management produced select list for 1997 Exhibit M-6. Management witness Smt. Nirupa Joshi in her

affidavit of evidence has stated that working days of workman from 20-10-81 to 15-2-82 were 83 days. The details of the working days of workman are also shown in para-5 of her affidavit. In para-6. Management's witness has stated as per settlement with Union temporary employees working during 1-7-75 to 31-7-88 were considered for absorption. The period was extended till 14-8-91. Workman had not completed 240 days continuous service during any of the year from 12-8-91 to 31-5-97. Provisions of Section 25-F was not violated. However management's witness in her cross-examination says workman was paid wages from petty cash. Said register is not produced. The chart of working days of workman is not produced. Workman was called for interview on 12-8-79. Select list of said interview is not produced. It is denied that name of workman was included in select list. Management's witness denied select list before the date of record. workman was paid bonus. in 1997, workman was not called for interview as he was found unsuitable in 1989. Witness of management admitted that workman was continuously working from 1991 to 97. Select list is produced at Exhibit M-6. Name of workman is not included in Exhibit M-6 as he had not completed 240 days continuous service during any of the year 1975 to 1991. She claims ignorance about any persons engaged by Bank after termination of services of workman.

11. Though management's witness says that after interview in 1989, workman was not found suitable. The select list of 1989 is not produced. Copy of settlements are produced on record. settlement dated 17-11-87 is amended time to time. Copy of amendment settlement at page 15 provides that the aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at anyone or more offices. The evidence of workman that during 1981, 82, he worked for 83 days, is unshattered rather it is also admitted by IInd party. Workman is squarely covered by agreement dated 17-11-87 modified time to time. Workman was called for interview. List on basis of interview in 1989 is not produced. Workman is fulfilling condition of working days during relevant period as per Exhibit W-1 and advertisement Exhibit W-3. Evidence of management's witness is not clear how the workman was not found suitable for absorption. Evidence discussed above clearly shows that workman was continuously working from 91 to 98 for more than 240 days. I find no reason to disbelieve evidence of workman. In absence of documentary evidence, the contentions of workman cannot be accepted.

12. Learned counsel for IInd party Shri V.P.Khare relied on ratio held in

Case of State of Karnataka and others versus M.L.Kesari and others reported in 2010((SCC 247) . their

Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I.D. Act.

Next reliance is placed in ratio held in

Case of Allahabad Bank versus Shri Prem Singh reported in 11 (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wagger stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wagger had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

13. The evidence shows that workman instead of regularizing service as per settlement dated 17-11-87 extended time to time, workman was terminated without notice, compensation was not paid to him. The act of management therefore is clearly in violation of Section 25-F of I.D. Act. For above reasons, I record my finding in Point No. 1 in Negative.

14. Point No.2- As per my finding in Point No1, termination of services of workman is illegal, workman is denied regularization as per settlement dated 17-11-87. Instead of regularizing, workman was dismissed from service without paying retrenchment compensation or issuing notice. Workman was working with IInd party during 1981-82, the details given Supra. Thereafter from 91 to 97. Considering denial of absorption as per settlement between management and Union, workman is terminated. Workman is entitled for regularisation of his services as per the settlement. The evidence adduced by workman and IInd party is not cogent about gainful employment of workman. Workman has not stated how he was surviving

after termination of his service since 1997. Considering those aspects, reinstatement of workman would be justified.

15. Shri Ram Nagwanshi Union representative submitted copies of award in R/180/00, 4/07, 105/02, 27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence. In my view, reinstatement of workman with 50 % back wages would be appropriate. Accordingly I record my finding in point No.2.

16. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service with 50 % back wages.

8. Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 75/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/30/2002-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 75/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/30/2002-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/75/02

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain ...Workman/Union

Versus

Asstt. General Manager,
State Bank of India,
Region-III, Zonal office,
Hamidia Road, Bhopal ...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 17-5-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/30/2002-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is justified? If not, what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/2 to 2/8. Case of workman is that he worked for 90 days in State Bank of Indore on vacant post of messenger in 1984. He sincerely worked without any grievance from any corner. Branch Manager called him in his cabin and proved that his name was included for absorption as permanent employee. He was called for interview in the year 85 to 89. He was included in the select list. He was told that he would be called for regular appointment. That agreements were settled between management and Union dated 17-11-87 to consider temporary employees working during 1-7-74 who worked for 30-70 days during said period. That in 1997, temporary employees were called for interview for permanent appointments. Applicant has submitted the documents. He was present on 19-2-97. However he was told that the instructions were received from Regional office Bhopal. That individuals who were interviewed in 1989 were not required to be interviewed.

3. Ist party workman further submits that he was working as messenger in the Bank from 24-4-97. He was working from 10 AM to 6 PM. He was performing his service with devotion. On 12-5-97, he submitted representations that the settlement donot provide for part time appointments. That he could not maintain his family as part time employee, he requested for appointment as permanent employee. It is submitted that he was directed to approach Regional Office, Bhopal. He was given understanding to approach appointment as regular employee to her office. The order for regular appointment was received. However when he approached branch office at Dhar, he was given understanding that the order for regular appointment was wrongly issued. He was appointed as part time messenger. He was not allowed to join duty as regular employee. Workman reiterates that he had worked for 90 days as per the bipartite settlement during 27-10-88 to 9-1-91. His name was included in select list. He had completed continuous service under Section 25 B of I.D.Act. Workman submits that despite he was selected after interview in 85 to 89, his services are illegally terminated. He is not given benefit for bipartite agreement. Instead of regularizing his. services, he was illegally termmated. On such ground, workman is praying for regularisation on post of messenger.

4. IInd party filed Written Statement at Page 7. Preliminary objection is raised for General Secretary Shri Nagwanshi is a dismissed employee of the Bank and he is not competent to represent workman. Bank has elaborate selection procedure for permanent appointment. It is necessary to call name from Employment Exchange. The Bipartite agreements dated 17-11-87, 16-7-88, 28-10-88, 9-1-91 provides opportunity to be given to the employees discontinued during 1-7-75 to 31-3-88. IInd party had given advertisement in newspaper calling applications in prescribed format of casual workers working during stipulated period. Workman was called for interview on 19-2-97. He was selected as part time employee in March 97. He was given appointment letter directing to report at Dhar branch. Workman remained absent from 1-5-97 to 5-5-97. He reported on duty on 6-5-97. Thereafter workman remained unauthorized absent, notice by RPAD was sent to him on 7-12-97 requesting to report on duty. However workman reported on duty on 23-7-97 after long period of one year. Workman himself abandoned job. Above contentions are reiterated by IInd party while replying to contentions "raised in statement of claim. It is emphasized that workman was appointed as part time employee after he was selected in the interview. He himself abandoned job. Workman was not selected as permanent employee. On such ground IInd party submits that workman was never given appointment as full time messenger workman is not entitled to relief claimed by them.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) "Whether the action of the management of Asstt General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Terms of reference are clear that workman is challenging denial of regular appointment evenafter his selection by interview. IInd party had denied workman was selected from post of permanent messenger. He remained unauthorisely absent and abandoned job. The documents produced by workman are admitted by IInd party marked as Exhibit W-1 to W-16. In Exhibit W-1 select list, name of workman is appearing. His educational qualification is shown 8th standard, working days-90, marks 30.1. said letter doesnot indicate that selection was for part time post. Exhibit W-2 is advertisement notice shows that the advertisement is given for absorption of part time employee to full time post. Exhibit W-3 is letter for interview issued in 1997. It clearly provide that candidates called for interview in 1989 were not required to be interviewed. Exhibit W-4 is letter given by Branch Manager about unauthorized absence of workman. He was called to join duty. W-5 is letter given by Branch Manager about his unauthorized absence. Exhibit W-6 is letter dated 2-9-97 given to workman about his absence on account of illness. Exhibit W-7 is receipt of payment of ₹ 240/- paid for 9 days working. W-8 is letter given by Branch Manager informing that he was under consideration for appointment as regular employee. Exhibit W-9 is reply given to ALC. It is stated by IInd party that proposal for part time appointment of workman was submitted. W-10 is notice given to parties by ALC. Exhibit W-11 to 15 are receipts of payment of retrenchment compensation to other employees. W-16 is letter given by AGM of Bank calling information about temporary daily wage employees completing 240 days service in branches.

7. Evidence is adduced by workman on affidavit covering his contentions in statement of claim that he worked for 90 days as per the settlement. He. was called for interiew in 27-7-89, his name was included in the list as he was interviewed in 1989, he was not interviewed in 1997. He further submits that he was not given

appointment as permanent employee despite of his selection after the interview. In his cross-examination, workman says when he joined Bank service in 1984, the post was not advertised. Appointment letter was not given to him at that time, After he was called on interview on 19-2-97, appointment letter was given to him. He was also interviewed in 1985. As per settlement between Union and management, he was interviewed. He had worked for 90 days. The appointment letter as required employee on full scale was issued but he was not allowed to join duty on ground that the order was wrongly issued. Even after approaching zonal office, he was not allowed to join duty as regular employee by the Branch manager. The evidence of workman is supported by documents. Exhibit W-1 to W-5 as well as W-7,8.

8. Management adduced evidence of witness Shri Sanjay Vijay Khole on affidavit supporting contentions in Written Statement. Witness of management says as per settlement of 87-88, 91, casual employees were called and select list was prepared. The period of settlement was extended till 14-8-91. When workman remained absent, he was served with notices by RPAD. Management's witness in his cross-examination says in 1984, he was not posted at MG Road branch. In 1985, 89 workman was not called for interview twice. He was called once for interview. He was unable to tell its date. The witness of management denied that workman was given appointment letter and the same was called back. Management's witness admits that as far as appointment letter given to workman, he had gone to join at branch. Said appointment letter is not produced. He admits that workman had submitted application for appointment as permanent employee. That contents of his application about resignation submitted by workman was in the context that workman remained absent on duty. That para-4 of his affidavit is silent about workman abandoning job, no enquiry was conducted against the workman.

9. Documentary evidence discussed above is clear that after his interview, name of workman was included in select list W -1. Said document doesnot show that he was selected for part time post. Notice W-2 also doesnot show that part time post was advertised. However document Exhibit W -8 shows that workman remained absent. As per evidence of management's witness chargesheet was not issued to workman, no enquiry is conducted against him. Letter of appointment given to workman is not produced on record. Thus management is suppressing immaterial evidence. The evidence of management's witness that workman had resigned from Job is not corroborated by documents. Evidence on said point cannot be accepted. The documents produced by management, copies of agreements Exhibit M-3, M-4 are clear that the employees completed minimum 30 days aggregate temporary service in any calendar year after 1-7-75 or

7-0 days service in any continuous block of 36 calendar months after 1-7-75 were eligible for absorption as permanent employee. Workman had worked for 90 days in 1984. Thus workman fulfills eligibility for absorption as regular employee. Evidence of management's witness is not cogent why workman was given appointment as part time employee of permanent employee. It appears that name of workman is not included in said list as he was not interviewed in 1997 and he was called for interview in 1989. Considering those spectrs it is apparent that despite of his selection for absorption as casual employee for regular appointment, workman was absorbing on regular post.

10. Learned counsel for IInd party Shri V. P. Khare relied on ratio held in :

Case of State of Karnataka and others versus M. L. Kesari and others reported in 2010 (SCC 247). their Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I. D. Act.

Next reliance is placed in ratio held in :

Case of Allahabad Bank versus Shri Prem Singh reported in II (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wager stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wager had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

11. Shri Ram Nagwanshi Union representative submitted copies of award in R/180/00, 4/07, 105/02, 27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence.

12. Evidence clearly shows that workman was found eligible for absorption on regular post as per the settlement but he was not given its benefit. The ratio held in above cases cannot be beneficially applied to present case. For above reasons, I record my finding in Point No.1 in Negative.

13. Point No.2- in view of my finding in Point No.1, the denial of regularization as permanent employee is illegal. Question arises whether he is entitled for reinstatement with back wages. Workman was selected after interview as per Bipartite Settlement. However he was denied regular appointment. Evidence of workman is not cogent on the point of what work he was doing after discontinuation from service. Evidence of workman is silent how he was maintaining his family for such long period. Evidence of management's witness is also silent on this point, therefore in my considered view, workman is entitled for regularization/reinstatement with 50 % back wages. Accordingly I record my finding in Point No.2.

14. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service with 50 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2985.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/220/2002-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2985.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 35/2003) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the State Bank of India and their workman, which was received by the Central Government on 18/11/2014.

[No. L-12012/220/2002-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/35/03

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Association,
9, Sanwer Road, Ujjain ...Workman/Union
Versus

Asstt. General Manager,
State Bank of India, Zonal Office,
Hamidia Road,
Bhopal (MP) ...Management

AWARD

Passed on this 28th day of October, 2014

1. As per letter dated 13-1-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/220/2002-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 5/1 to 5/5 through Secretary, Daily Wage Bank Employees Union, Ujjain. Case of workman is that he was engaged as peon/ messenger in May 1989 on daily wages @ ₹ 20/- per day. His wages were increased to ₹ 20, 30, 40 per day. He was working in GPO Branch, Indore. He was deputed to place of transfer of Manager. He was cooking meals for them. He was also watching their residential home. He was paid wages on petty cash. In May 93, he was directed to work in Indore branch. He worked under Branch Manager Shri Chatti. Srivastava, Sadavarte. He was discontinued from 6-4-95. He was not paid retrenchment compensation. Notice was not served on him. It is submitted that he worked continuously more than 240 days. He was paid bonus for May 89 to 6-4-95. That he is covered as employee under Section 25 B of I.D. Act. Termination of his service is in violation of Section 25-F, H of I.D. Act. On such ground, workman is praying for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 8/9. Preliminary objection is raised that Ram Nagwanshi so called General Secretary of Union is a dismissed

employee of SBI is not competent to participate in the reference proceeding. Workman was temporarily engaged on daily wages as messenger at GPO branch Indore and Godha Colony branch, Indore. He worked for 80 days in 1991, 126 days in 1992, 11 days in 1993 at GPO branch and 5 days in October 1994, 14 days in November 94 and 19 days in December 94 at Godha colony branch. Workman was paid bonus ₹ 262/- on 11-12-01. It is reiterated that workman is not appointed by Bank. His engagement on the day come to end at end of day. His discontinuation is covered under Section 2(oo)(bb) of I.D. Act. As per settlement with union, casual employees working during 1-7-75 to 31-7-88 were called for interview for absorption. Workman did not submit application after advertisement. Therefore there is no question of his consideration for absorption. It is reiterated that workman had not completed 240 days continuous service. He is not entitled to retrenchment compensation, notice of pay, pay in lieu of notice. On such ground, IInd party prays for rejection of claim.

4. Workman submitted rejoinder at 11/1 to 11/3 reiterating his contentions in statement of claim. He submits that he completed 240 days continuous service. His services are terminated without paying retrenchment compensation.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. **Point No.1**—terms of reference relates only to legality of termination of service of workman from 6-4-95. It doesnot include denial of regularization of workman as per bipartite settlement. Workman has pleaded that he completed 240 days continuous service with IInd party. His services are terminated without notice, not paid retrenchment compensation. Workman filed affidavit of his evidence on 11-1-07. As per order sheet dated 2-6-2010, representative of workman submitted that workman is not produced for his cross-examination. Evidence of workman was closed that note that his evidence will not be looked into. Thus the contentions of workman are not

supported by evidence. The documents admitted by IInd party W-1 shows attendance of workman in the month of May 1992. W-2 shows attendance of workman in December 91, January 92, those documents donot show that workman was working with IInd party during 12 consecutive months prior to termination of workman in April 1995. Exhibit W-3 is representation submitted to ALC, Bhopal about illegal termination of workman for violating Section 25-F of I.D. Act. W-4 is letter given by workman to management for payment of bonus from May 89 to May 93. W-5 is letter reply given by IInd party to ALC, Bhopal. The working days of workman are shown 80 days in 1991, 126 days in 1992, 11 days in 1993. That workman had not completed 240 days. W -6 is reply submitted by IInd party before ALC showing payment of bonus ₹ 162/- for 91-92, ₹ 100 for 92- 93. The working days of workman are shown 122 days in 91-92, 84 days in 92-93, 11 days in 93-94. In Ex W-7 working days shown by management similar to earlier documents. W-8 is letter given by Union Representative before ALC stating that workman was terminated without notice, retrenchment compensation was not paid. W-9 is copy of failure report, W-10 is letter given by Asstt. General Manager calling information about casual employees working in branch. W -11 is also letter given by Asstt. General Manager calling information of daily wage employees completed 240 days till 30-9-02. All those documents donot establish that workman was continuously working for 240 days during preceding 12 months of his discontinuation on 6-4-95. Copies of bipartite settlement are produced on record. however as per terms of reference, donot include denial of regularization of workman in violation of Bipartite Settlement therefore detailed discussion of conditions in Bipartite Agreement is not necessary.

7. Management filed affidavit of evidence of Shri Mahesh Kumar Maheshwari. He has supported contentions of management that the workman was working for 80 days in 91, 126 days in 1992, 11 days in 1993. He was engaged on daily wages. Workman was working 5 days in October 94, 14 days in November 94 and 19 days in December 94 at Godha Colony branch, Indore. In his cross-examination, witness says during 91 to 93, he was not working in Godha branch. Presently he is working in said branch. He did not discuss with earlier Branch Managers about Ist party workman. He claims to have received information from Administrative office. No recruitment process was followed before engaging Ist party workman on daily wages. Permission of Controlling Authority was not obtained before engaging workman on work. Bipartite Settlement are applicable to IInd party. Attendance Register of workman was not maintained. Workman was paid through petty cash. Petty cash register was maintained. Workman was paid bonus in 2001. The documents discussed earlier shows payment

of bonus and working days of workman. The evidence in cross-examination of management's witness is not supporting claim of workman that he had worked for more than 240 days preceding his discontinuation on 6-4-95. Workman has not made available for his cross-examination and his evidence cannot be looked into. As such there is no evidence to support claim of workman that he was continuously working more than 240 days preceding his discontinuation. Therefore compliance of Section 25-F of I.D. Act is not necessary. The termination of workman in violation of Section 25-F of I.D. Act is not established. For above reasons, I record my finding in Point No.1 in Affirmative.

8. Pont No. 2- in view of my finding in Point No.1, termination of service of workman in violation of Section 25-F is not proved, workman is not entitled to any relief as claimed. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2986.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 5/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-41012/159/2004-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the West Central Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41012/159/2004-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/5/06

PRESIDING OFFICER: SHRI R. B. PATLE

Shri Narmada Prasad,
S/o Shri Hari Ram,
R/o Ganeshganj Ward No.9,
Shahpur Police Chouki Sahapur,
Post Magroan,
Distt. Sagar (MP)

Workman

Versus

Divisional Railway Manager,
West Central Railway,
Jabalpur.

Management

AWARD

Passed on this 30th day of October, 2014

1. As per letter dated 5-1-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/159/2004-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Divisional Railway Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Narmada Prasad S/o Shri Hari Ram w.e.f. 15-3-88 is justified or not? If not, to what relief the applicant is entitled to and from which date?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/3. Case of workman is that he was engaged in Railway service from 18-10-78 under Loco Foreman, Sagar. He worked till 14-3-88 for 10 years. That he was continuously working for more than 240 days. He gained status of temporary employee. That his services were not regularized rather he was arbitrarily terminated without giving any opportunity. Any show-cause notice was not issued to him. Termination of his service is illegal. Workman further submits that the management given assurance in writing that in next recruitment, he will get his job in recruitment of old card holders in 2003. That IInd party employed 350 card holders back on duty. Workman was not recruited along with them. Workman raised dispute before ALC. Labour Ministry refused to make reference. He filed Writ Petition No. 11821/05 only after direction of Hon'ble High Court, the reference has- been made. Workman prays for reinstatement with consequential benefits.

3. IInd party management filed Written Statement. Objection is raised after 17 years is not tenable. IInd party referred to ratio held in various cases. That the dispute raised after 7 years is not tenable. IInd party further submits that Hon'ble High Court directed to decide issue as to whether workman had opportunity for re-employment while 358 Co-workers were re-employed in 2003. Claim of workman is restricted from 2003 as per orders passed by Hon'ble High Court. Workman was offered opportunity for re-employment with 350 ex-casuals. Workman claimed that he was engaged from 78 to 88. It is submitted that Railway has recruitment policy for appointment of regular employees. Procedure has to be followed for regular appointments. That in March 2003, IInd party invited applications of ex-casuals publishing in daily newspaper. Workman had not submitted application at that time. Workman first time claimed employment in 2005. It is submitted that workman had not completed 120 days, he has not produced record, he has not acquired status of temporary employee. The details of working days of workman are given Para-10. All other adverse contentions of workman have been denied. That workman was engaged as casual labour in broken period from May 1981 to June 1984. He has not completed 240 days service. On such ground, IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the action of the management of Divisional Rail Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Narmada Prasad S/o Shri Hari Ram w.e.f. 15-3-88 is justified or not? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

5. The terms of reference relates to legality of termination of his service from 15-3-88. However workman in his statement of claim in Para-4 has pleaded that he was assured job in recruitment of card holders. The contention of workman on above point and his evidence on point is beyond the terms of reference. Though the Hon'ble High Court set aside order of Govt. refusing to make reference on ground of delay on 17 years observing that other casual card holders were appointed in 2003, claim of workman cannot be said belated. However the terms of reference donot relate to the claim of workman for appointment as casual card holders rather

terms of reference relates to the legality of his termination in 1988.

6. Workman in his affidavit of evidence has stated that he was in Railway Service, Loco Foreman Sagar as casual labour from 18-10-78, he was working till 14-3-88. He acquired status of monthly rated employees. He acquired status of 240 days service. Service certificate was issued to him. His casual card no. is 188095. Workman in his cross-examination says casual card was issued by Foreman in 1978 but attendance card is not produced. On 14-3-88, he was terminated. That he raised dispute in Labour Court but unable to tell its date. He claims ignorance whether any settlement was arrived for employing casual card holders. He was unable to tell whether the documents M-3 produced by management was correct or not. He denies that the management had published notice in 2003. That he had not submitted application in 2003.

7. Management's witness Shri Chandan Singh in his affidavit of evidence has stated that management had decided to offer opportunity to call casual labours for appointment against regular vacancies. Said decision was published in Dainik Bhaskar in March 2003 Exhibit M-1 inviting applications from casuals. The copy of list Annexure M-2 is produced. That workman did not tender any application at relevant time. He did not approach management claiming employment as casual labours. Workman did not complete 120 days service. The details of working days of workman are given in para-14 of his affidavit. Management's witness in his cross-examination says the casual service card used to be issued by Loco Foreman. When casual service card was issued, he was not working at Loco Sagar. He claims ignorance when working of Loco Sagar was closed, working of steam loco stopped long back. He never worked in steam loco. Workman was working as casual labour during 1981 to 1984. He has stated delay of 17 years on basis of documents. Workman has produced zerox copies of documents but no care is taken to prove same by valid evidence. The documents produced by management M-I shows workman had worked for 474 days during May 81 to June 84. The dispute is raised in the year 2006 whereas as per pleadings he was terminated in 1988. The dispute relating to legality of his termination raised after almost 17 years is belated. Management has produced Exhibit M-1 relating to regularization of 308 Railway Casual labours. The careful reading of said publication doesnot show that applications were invited for regularization of casual labours but said publication clearly shows that General Manager of Central Railway had decided to regularize 308 casual labors whose signatures were in the register. The names of such are given only for convenience of the casual labours regularized by said publication. Ist party workman was also working as casual labour. The evidence of management's witness is also clear

about his working. Certainly the workman as a casual labour would have been entitled for regularization. However the terms of reference are related to legality of his termination from service in 1988. The terms of reference do not include claim of workman for regularization as casual card holders therefore the relief claimed by workman for regularization being beyond terms of reference could not be upheld. The legality of termination of services raised after 17 years is highly belated and cannot be interfered. For above reasons, I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under.-

- (1) The termination of services of workman is not established.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2987.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 11/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/307/1999-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/307/1999-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/11/2000

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain

...Workman/Union

Versus

Asstt. General Manager,
State Bank of India,
Region-V, Zonal office,
Hamidia Road, Bhopal

...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 23-24/12/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-12012/307/99/IR(B-I). The dispute under reference relates to:

"Whether Shri Madanlal Malviya was a workman under ID Act 1947 of State Bank of India, Ujjain branch. If so, whether the action of the, management of State Bank of India, Ujjain Branch in terminating his services w.e.f. 20-9-93 instead of regularizing is legal and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/5. Case of Ist party workman is that he was engaged by Branch Manager as peon on monthly salary ₹ 250/- from 10-5-90. On 20-3-91, Branch Manager SBI called him for interview. He was told that he cannot continue him for more than 240 days continuous service. That his name was sent to Regional Office. Whenever vacancy will be available, he will be called. That Branch Manager had engaged him as peon. He was paid ₹ 32/- per day. Till 20-9-93, he was engaged on daily wages, then his services were discontinued. As per settlement dated 27-10-88, 14-8-91, casual temporary employees working during 1-7-75 to 31-7-88 for 30, 70, 240, 270 days were eligible for appointment as regular employees. That as per those settlements, he had worked for 300 days during 10-5-90 to 14-8-91. That on 12-2-97, he was called for interview. At the time of interview he told that he completed 240 days continuous service. It is alleged that after interview of 1997, some malpractices were committed of giving amounts. Committee members were suspended. Workman says that he worked for 314 days during 10-5-90 to 20-3-91. He was not continued by IInd party. He raised dispute. IInd party had sought adjournments for filing reply. After failure report submitted to Govt reference is made. Workman submits that he completed 240 days continuous service as provided under Section 25 of I.D.Act. he is not regularized by IInd party as per settlement dated 27-10-88, workman further submits that IInd party has committed offence under Section 29 of the I.D.Act. IInd party also violated the Section 25-G, H, N of I.D.Act. other employees

Satyanarayan and 5 others were engaged by management, workman was not called for re-employment. IInd party violated Section 25-F of I.D.Act. on such grounds, workman prays for reinstatement/regularization.

3. IInd party filed Written statement at Page 8/1 to 8/12. IInd party raised objection that Union secretary Ram Nagwanshi is a dismissed employee of Bank and as such he cannot represent workman. IInd party in Para-2 admits that workman had worked for 240 days during 11-5-90 to 20-4-91. He had also worked for 36 days during 9-2-94 to 23-5-94 after he raised dispute before ALC. On failure report submitted to Govt, reference is made to this Tribunal. Workman reiterates that IInd party engaged workman on casual basis. The engagement of workman ended at end of day. The discontinuation is covered under Section 2(o)(bb) of I.D.Act. His discontinuation does not amount to retrenchment. It is further pleaded that Bank has elaborate selection procedure. The provisions of Bipartite settlement dated 17-11-87, 16-7-88, 27-10-88, 9-2-91, 30-7-96 provides eligibility criteria for selection procedure for permanent post in sub cadre. Workman was given chance as per bipartite agreements. Workman failed to appear on 20-9-91. However interview committee permitted him to appear for interview since application was submitted by workman. As per settlement, panel was required to be kept alive till March 97. Workman was engaged for only two hours a day as per casual basis. Workman was not engaged for whole day as pleaded by workman. All adverse contentions of workman are denied. It is not disputed that workman was paid wages at ₹ 250/- per month. Ist party workman was paid wages at ₹ 250/- per month. Ist party workman had not worked 240 days in any calendar year. The engagement of workman was purely on part time basis. It is denied that IInd party violated provisions of Section 25-G, H of I.D.Act. The allegations of workman are vague. Workman has not worked for statutory period of 240 days provided under Section 25 B of I.D.Act. on such contentions, IInd party prays for rejection of claim.

4. Workman has filed rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|----------------|
| (i) Whether Shri Madanlal Malviya was a workman under ID Act 1947 of State Bank of India, Ujjain branch | In Affirmative |
| (ii) whether the action of the management of State Bank of India, Ujjain Branch in | |

terminating his services w.e.f. 20-9-93 instead of regularizing is legal and justified?	In Affirmative
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- | | |
|---|--|
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |
|---|--|

REASONS

6. As per terms of reference, Ist issue deals with whether Ist party is covered as workman under I.D.Act? In para-2 of Written Statement, IInd party has contented that Ist party had worked 240 days during period 11-5-90 to 20-4-91. Workman was again engaged at Ujjain Branch of State Bank of India as daily rated casual employee. He had also worked for 26 days during 9-4-90 to 23-5-94.

7. Workman filed affidavit of his evidence stating that he was working at SBI branch Ujjain from 10-5-90. As per order sheet dated 2-6-2010, workman remained absent and it is ordered that his evidence will not be looked into. Though the evidence cannot be looked into, the pleadings in Written Statement is clear that workman is covered under Section 2(s) of I.D.Act. he was working in branch Ujjain. Therefore I record my finding in Point No.1 in Affirmative.

8. Point No.2- workman is claiming regularization/reinstatement alleging that though he was working with the Bank as per bipartite settlement, absorption of casual/temporary employees, he was not appointed/absorbed on permanent post. Workman filed affidavit of his evidence but he failed to appear for his cross-examination, his evidence cannot be considered. The documents produced by workman Exhibit W-1 shows workman was engaged on supplying drinking water, document Exhibit W-2 shows that workman was engaged to ₹ 250/- per month from 10-5-90 to 20-3-91. Exhibit W-3 is interview call given to workman, Exhibit W-4 is public notice given by Bank for regular appointments of casual employees working during 95 to 98. Exhibit W-5 is application submitted to ALC by Shri Ram Nagwanshi, W-6 is letter issued by ALC, W-7,8 are letter given by Secretary to ALC, W-9 is certificate issued by Branch Manager about workman engaged during the period 10-5-90 to 20-3-91. W-11 is copy of public notice advertising post, W-12 is copy of interview call. W-13 is letter given by Asstt. General Manager calling information about casual employees working more than 240 days. Copies of bipartite settlement amended from time to time are produced on record. Clause III at Page 10 provide The aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at any one or more offices. Clause VI of the agreement regarding existing waiting list provides the waiting list prepared after completion of interviews of the temporary employees in subordinate cadre who have completed 90 days of service and above as on

31st October 1984 has not yet been exhausted, it will be valid upto 31-7-88. Copy of select list of 1997 is produced at Exhibit M-6.

9. Management filed affidavit of Shri Sajeev Nema. He has admitted 240 days working of workman during period 11-5-90 to 20-4-91. Management's witness says that after 23-5-94, workman was not engaged. He had worked for 36 days during 9-2-94 to 23-5-94. That after interview, select list of the candidates was prepared. The period of settlement was extended till 14-8-91. Selected candidates were appointed against availing vacancies time to time. In his cross-examination, management's witness says his affidavit of evidence is filed on basis of available record. He did not enquire with respective Branch Managers. The documents referred by him are not produced. Workman was initially engaged at ₹ 10/- per day. Appointment letter was not given to him. His attendance register was not maintained. The witness of management claimed that candidates working less than workman is selected were appointed. The evidence discussed above shows workman worked for 240 days during 11-5-90 to 20-4-91. Bipartite agreement dated 17-11-87 contemplates 240 days working during the period 1-7-75 to 27-10-88. Workman was not working during said period. The period of said agreement was extended till 14-8-91. As per pleadings in Written Statement para-2, workman was working for 240 days prior to cut off date 14-8-91. However workman had not submitted application for regular appointment. Though he was permitted by IInd party to participate in selection process, he was not considered in the select list. Considering above aspects of evidence on record, the management has not committed illegality not regularizing his services as per agreement. For above reasons, I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of State Bank of India, Ujjain Branch in terminating his services w.e.f. 20-9-93 instead of regularizing is legal.
- (2) Workman is not entitled to any relief as claimed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2988.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर मर्ज्ड एज भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 27/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/133/1997-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of Indore Merged as State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/133/1997-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/27/98

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
Hardev Niwas,
9 Sanwer Road, Ujjain ...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Merged as State Bank of India
Local Head Office,
Hoshangabad Road, Bhopal ...Management

AWARD

Passed on this 14th day of October 2014

1. As per letter dated 13/17-2-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/133/97-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is Justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to parties. Statement of claim is submitted by General Secretary of Union on behalf of workman at page 3/1 to 3/4. Case of 1st party refers to Article 39, 41, 43 rights given to the citizen of India for employment, payment of minimum wages etc. Union further submit that 1st party

workman was engaged by Branch Manager for cleaning, dusting etc. work. From 4-10-91, workman was carrying various duties of peon-distribution of letters, taking registers to different tables, supplying drinking water. He was working between 8 to 10 AM and 10.30 to evening when Bank was closed. He was continuously working till termination of his services on 15-8-97. That he completed 240 days continuous service. He was working 6 days in a week. He was not paid wages for holidays. Despite he completed 240 days continuous service as provided under Section 25 (B) of I.D. Act. His services were not regularized. His services were terminated without notice in violation of Section 25-F of I.D. Act, Para 507, 554 of Sastry Award. That after termination of his service, other persons are engaged. Principles of last come first go was not followed. He was not provided re-employment. As such IInd party violated provisions of Section 25 G, H of I.D. Act. on such ground, workman prays for regularization in service. Statement of claim is signed by Ramnagwanshi, General Secretary claiming to the General Secretary of Union.

3. Management filed Written Statement at Page 7/1 to 7/7 denying claim of 1st party Union. Preliminary objection is raised by IInd party without authority. That workman Saroj Kumar was not member of Union. Claim is not tenable. The daily wages Bank Employees Union has no territorial jurisdiction to represent claim of workman. That Director of Bank is not necessary party. Claim is bad for misjoinder of parties. IInd party further submitted objection that statement of claim is not filed in prescribed proforma. Claim is not tenable. It is denied that Union is registered and General Secretary is authorized to prosecute claim of workman. It is denied that workman was carrying various duties claimed in statement of claim. It is denied that workman was working for more than 8 hours per day and he was not paid wages for the same. It is denied that workman had completed 240 days continuous service in any of the year. Violation of Section 25-F, Para 507, 534 of Sastry Award is denied by IInd party. IInd party has not terminated services of workman. Retrenchment is challenged in his statement of claim. Workman is not entitled to any relief. Violation of Section 25-G, H of I.D. Act is denied. It is denied that workman has crossed the age for service and his family member are affected.

4. IInd party submits in its special pleading that workman was engaged for some time temporarily for supplying drinking water. He was paid wages for said work. Workman was not appointed following selection process. Workman was not appointed by the Bank as per rules. He is not entitled to regularization. Ist party Union submitted rejoinder at page 8/1 to 8/5 reiterating its contentions in statement of claim. In para-5 of rejoinder, Ist party Union has pleaded that IInd party had committed acts of issuing false certificate, tampering the evidence, work against law

punishable under various sections of IPC. Ist party further submits that workman was paid wages in name of Shri Kanhaiyalal from February 92 to April 92, Shri Ranchod from April 92 to July 92, Shri Radhesham from July 92 to January 93, Pradeep Jaiswal from February 93 onwards. All other contentions in Written Statement filed by management are denied.

5. IInd party also filed reply to the rejoinder at page 10/1 to 10/2. It is submitted that Bank doesnot pay wages in name of other persons. Bogus vouchers are not prepared by the Bank. The contentions of Ist party in the rejoinder are false.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is iustified? In Affirmative
- (ii) If not, what relief the Workman is not entitled workman is entitled to?" to any relief claimed.

REASONS

7. The terms of reference are clear whether not regularizing Shri Saroj Kumar S/o Kanhaiyalal is justified. However the pleadings in statement of claim by Ist party relates to termination of services of Ist party workman was discontinued from 15-8-97 in violation of Section 25-F, 25-G, H of I.D. Act. The same are beyond the terms of reference. All material contentions of Ist party have been denied by IInd party management.

8. Workman filed affidavit of his evidence at page 19/1 to 19/2. That he was engaged by Branch Manager from 4-10-91 for working of cleaning, sweeping, dusting etc. he was paid wages ₹ 25/- per day. He was also paid wages in name of Shri Kanhaiyalal from February 92 to April 92, Shri Ranchod from April 92 to July 92, Shri Radhesham from July 92 to January 93, Pradeep Jaiswal from February 93 onwards. Workman could not be cross-examined by IInd party. Right to cross-examine workman was closed on 25-9-08. The evidence of workman remained unchallenged. Management submitted affidavit of evidence of witness Shri Harinath Srivas. Witness of management was not present for his cross-examination. Affidavit of witness Shri Bhupendra Jain was submitted by management. Witness of management has stated that workman was engaged as per exigencies for cleaning, dusting etc work for one hour morning, one hour evening. Workman was paid wages for it. Other contentions of

workman about continuously working from 4-1-91 to 15-8-97 are denied. It is denied that workman was continuously working during above said period. In his cross-examination, management's witness says any selection process was not followed before engaging workman. He claims ignorance whether permission from Controlling Authority was obtained for engaging workman. Appointment letter was given to him. Witness of the management had admitted documents Exhibit W-1 to W-6.

9. Exhibit W-1 does not give working days of workman. Documents W-2 to W-4 show payment of wages ₹ 125/-, 75/-, 400/- and 750/-. In 1992, payment of ₹ 75/- is shown in name of Shri Radhesham Parihar, payment of ₹ 400/- is shown in name of Shri Anil Jaiswal, payment of ₹ 750/- is shown for cleaning charges in August 1996. Exhibit W-5 is application submitted to General Manager, State Bank of Indore. Workman was paid ₹ 501/- per month for work of supplying drinking water. ₹ 25/- per day for cleaning work. Working days are not shown in Exhibit W-5, W-6. The evidence in cross-examination of management's witness discussed above is clear that workman was not appointed following recruitment rules. Ist party has submitted copy of settlement dated 13-7-93 which provides one time opportunity for appointment as peon/farash to the employees who have worked more than 240 days in 12 consecutive months. The pleadings and evidence of workman on above point is silent. Clause 2 of said circular

provides for interview of eligible candidates, the pleadings and evidence of workman's silent whether workman had applied for absorption or he was called for interview and selected. In absence of such evidence, workman cannot be given benefit of regularization. He was not appointed following selection process. Representative of workman Ram Nagwanshi in support of his argument produced copies of award passed in 180/00, 4/07, 105/03, 27/04. The facts of present case are not comparable with the facts of those references. Each case needs to be decided as per evidence on record, the award passed by this Tribunal in other cases cannot be treated as binding precedent. Considering evidence on record, workman was not appointed following selection process. He has not complied requirements of circular dated 13-7-93. Workman cannot be given benefit of regularization. Claim of workman for reinstatement with back wages on ground of termination of his service in violation of Section 25-F, G, H of I.D. Act is beyond the terms of reference therefore workman cannot be allowed in service. For above reasons, I record my finding in Point No.1 in Negative.

10. In the result, award is passed as under:-

- (1) The action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 47] नई दिल्ली, नवम्बर 16—नवम्बर 22, 2014, शनिवार/कार्तिक 25—अग्रहायण 1, 1936
No. 47] NEW DELHI, NOVEMBER 16—NOVEMBER 22, 2014, SATURDAY/KARTIKA 25—AGRAHAYANA 1, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 12 नवम्बर, 2014

का.आ. 2937.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 कर 28) की धारा 6 की उप-धारा (1) के खंड (ड) के उप-खंड (i) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा, श्री अरविन्द सुब्रमणियन, मुख्य आर्थिक सलाहकार, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से और अगले आदेशों तक, डॉ. रघुराम जी, राजन के स्थान पर भारतीय निर्यात-आयात बैंक के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 9/16/2012-आईएफ-1]

गोविन्द राम, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 12th November, 2014

S.O. 2937.—In pursuance of sub-clause (i) of clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), Central Government hereby nominates Shri Arvind Subramanian, Chief Economic Advisor, Ministry of Finance, New Delhi as Director on the Board of Directors of Export Import Bank of India vice Dr. Raghuram G. Rajan with immediate effect and till further orders.

[F.No. 9/16/2012-IF-I]

GOVIND RAM, Under Secy.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा यूनिट)

नई दिल्ली, 10 नवम्बर, 2014

का.आ. 2938.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत केन्द्रीय विद्यालय संगठन (मुख्यालय), नई दिल्ली के निम्नलिखित 20 केन्द्रीय विद्यालयों को, ऐसे कार्यालयों के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:

1. केन्द्रीय विद्यालय, नं. 1, धनबाद, बिनोद नगर, धनबाद-826001 (झारखण्ड)
2. केन्द्रीय विद्यालय, झारसुगुडा, रेलवे कॉलोनी, झारसुगुडा-768201 (ओडिशा)
3. केन्द्रीय विद्यालय, जिला-गोडडा-814133 (झारखण्ड)
4. केन्द्रीय विद्यालय, सिंगारसी, ए.एफ.एस. 507, एस.यू.ए.एफ. 99 ए, पी.ओ. (झारखण्ड)
5. केन्द्रीय विद्यालय, हिनू (प्रथम पाली), डोरण्डा, रांची-834002 (झारखण्ड)
6. केन्द्रीय विद्यालय, जामताड़ा, बालिका उच्च विद्यालय परिसर, न्यू टाउन, जामताड़ा-815351 (झारखण्ड)
7. केन्द्रीय विद्यालय, कुत्रा, सेंटर प्राइमरी स्कूल, जिला सुंदरगढ़-770018 (ओडिशा)
8. केन्द्रीय विद्यालय, साहिबगंज, हबीबपुर, जिला साहिबगंज-816109 (झारखण्ड)
9. केन्द्रीय विद्यालय, साहिबगंज, सिमडेगा, आदिवासी बालिका छात्रावास, सामटोली, गोतरा, जिला-सिमडेगा-835235 (झारखण्ड)
10. केन्द्रीय विद्यालय, पो. बरकाकाना, जिला रामगढ़-829102 (झारखण्ड)
11. केन्द्रीय विद्यालय, पतरातू, डीजल कॉलोनी, जिला रामगढ़-829120 (झारखण्ड)
12. केन्द्रीय विद्यालय, मधुपुर, जिला देवघर-815353 (झारखण्ड)
13. केन्द्रीय विद्यालय, नं. 2, धनबाद, जगजीवन नगर थाना के पीछे, पोस्ट-जगजीवन नगर, धनबाद-826002 (झारखण्ड)

14. केन्द्रीय विद्यालय, गुमला, ट्रेनिंग स्कूल कैम्पस, करमटोली रोड, गुमला-835207 (झारखण्ड)
15. केन्द्रीय विद्यालय, जशपुर, डोरका चौरा, गम्हरिया, जशपुर-496331 (छत्तीसगढ़)
16. केन्द्रीय विद्यालय, नामकुम, रांची-834010 (झारखण्ड)
17. केन्द्रीय विद्यालय, हिनू, (द्वितीय पाली), डोरण्डा, रांची-834002 (झारखण्ड)
18. केन्द्रीय विद्यालय, गढवा, पिपरा कलां, गायत्री नगर, जिला-गढवा-822114 (झारखण्ड)
19. केन्द्रीय विद्यालय, जिला-लातेहार-829206 (झारखण्ड)
20. केन्द्रीय विद्यालय, सी.आर.पी.एफ., धुर्वा, रांची-834004 (झारखण्ड)

[सं. -11011-3/2014-रा.भा.ए.]

सुखबीर सिंह संधू, संयुक्त सचिव

**MINISTRY OF HUMAN RESOURCE
DEVELOPMENT**

(Department of Higher Education)

(O.L. Unit)

New Delhi, the 10th November, 2014

S.O. 2938.—In pursuance of sub. rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following 20 Kendriya Vidyalayas of Kendriya Vidyalaya Sangathan (HQ), New Delhi under the Ministry of Human Resource Development, (Department of School Education & Literacy) as offices, whose more than 80% members of the staff have acquired working knowledge of Hindi:

1. Kendriya Vidyalaya, No. 1, Dhanbad, Binod Nagar, Dhanbad-826001 (Jharkhand)
2. Kendriya Vidyalaya, Jharsuguda, Railway Colony, Jharsuguda-768201 (Odisha)
3. Kendriya Vidyalaya, Distt.-Godda-814133 (Jharkhand)
4. Kendriya Vidyalaya, Singharsi, AFS, 507, SAUF C/o 99 APO (Jharkhand)
5. Kendriya Vidyalaya, Hinoo (1st Shift) Doranda, Ranchi-834002 (Jharkhand)
6. Kendriya Vidyalaya, Jamtara, Girls High School Campus, New Town, Jamtara-815351 (Jharkhand)

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| 7. Kendriya Vidyalaya, Kutra, At Centre Primary School, Distt.-Sundargarh-770018 (Odisha) | 14. Kendriya Vidyalaya, Gumla, Training School Campus, Karam Toli Road, Gumla-835207 (Jharkhand) |
| 8. Kendriya Vidyalaya, Sahibganj, Habibpur, Distt. Sahibganj-816109 (Jharkhand) | 15. Kendriya Vidyalaya, Jashpur, Dorka Chora, Gamharia, Jashpur-496331 (Chhattisgarh) |
| 9. Kendriya Vidyalaya, Sahibganj, Simdegaa, At Adiwasi Balika Chhaatravas, Samtoli, Gotra, Distt. Simdega-8835235 (Jharkhand) | 16. Kendriya Vidyalaya, Namkum, Ranchi-834010 (Jharkhand) |
| 10. Kendriya Vidyalaya, Post-Barekakana, Distt-Ramgarh-829102 (Jharkhand) | 17. Kendriya Vidyalaya, Hinoo (2nd Shift), Doranda, Ranchi-834002 (Jharkhand) |
| 11. Kendriya Vidyalaya, Patratu, Diesel Colony, Distt. Ramgadh-829120 (Jharkhand) | 18. Kendriya Vidyalaya, Garhwa, Pipara Kalan, Gayatri Nagar, Distt. Garhwa-829206 (Jharkhand) |
| 12. Kendriya Vidyalaya, Madhupur, Distt.-Deoghar-815353 (Jharkhand) | 19. Kendriya Vidyalaya, Distt.-Latehar-829206 (Jharkhand) |
| 13. Kendriya Vidyalaya, No. 2, Dhanbad, Behind Jagjivan Nagar Police Station, Post-Jagjivan Nagar, Distt-Dhanbad-826002 (Jharkhand) | 20. Kendriya Vidyalaya, CRPF, Dhurva, Distt. Ranchi-834004 (Jharkhand) |

[No. 11011-3/2014-O.L.U]

SUKHBIR SINGH SANDHU, Jt. Secy.

कोयला मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2939.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में वर्णित भूमि में कोयला अभिप्राप्त होने की संभावना है;

और भारतीय सर्वेक्षण टोपोशीट संख्या 64 ई/7 (आर.एफ. 1:50000) का जिसमें उक्त अनुसूची में वर्णित भूमि क्षेत्र के ब्यौरे अन्तर्विष्ट है, का निरीक्षण महाप्रबंधक (गवेषण प्रभाग), सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीट्यूट लिमिटेड, गोंदवाना प्लेस, कांके रोड, रांची के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाऊस स्ट्रीट, कोलकाता — 700001 के कार्यालय में या जिला कलक्टर, जिला शहडोल, मध्य प्रदेश के कार्यालय में किया जा सकता है।

अतः अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पूर्वोक्त अनुसूची में वर्णित भूमि में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति —

- (i) उक्त अधिसूचना की धारा 4 की उप-धारा (3) के अधीन की गई किसी कार्रवाई से हुई या सम्भवतः होने वाली किसी क्षति के लिये उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन प्रतिकर का दावा कर सकेगा; या
- (ii) उक्त अधिनियम की धारा 13 की उप-धारा (1) के अधीन पूर्वोक्षण अनुज्ञप्तियों के प्रभावहीन होने की बाबत या उक्त अधिनियम की धारा 13 की उप-धारा (4) के अधीन खनन पट्टे प्रभावहीन होने के लिये प्रतिकर का दावा कर सकेगा और उसे उक्त अधिनियम की धारा 13 की उप-धारा (1) के खंड (i) से खंड (iv) में विनिर्दिष्ट मदों की बाबत उपगत व्यय को उपदर्शित करने के लिये पूर्वोक्त भूमि से संबंधित सभी मानचित्रों, चार्टों और अन्य दस्तावेजों को परिदत्त कर सकेगा।

राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से नब्बे दिन की अवधि के भीतर महाप्रबंधक (गवेषण प्रभाग), सेंट्रल माइन प्लानिंग एण्ड डिजाइन इन्स्टीट्यूट लिमिटेड, गोंदवाना प्लेस, कांके रोड, रांची-834031(झारखंड) के कार्यालय को भेजेंगे।

अनुसूची

बिचारपुर पूर्व ब्लॉक, सोहागपुर कोयला क्षेत्र

जिला—शहडोल, मध्य प्रदेश

[टोपोग्रीट संख्या 64 ई/7 (आर.एफ. 1:50000)]

क्र. सं.	मौजा/ग्राम	तहसील	पटवारी हल्का संख्या	बन्दोबस्त संख्या	जिला	क्षेत्र एकड़ में (लगभग)	क्षेत्र हेक्टर में (लगभग)	टिप्पणियां
1	2	3	4	5	6	7	8	9
1.	बासिन	सिंहपुर	88	707	शहडोल	642.09	259.84	भाग
2.	फतेहपुर	सिंहपुर	92	624	शहडोल	439.83	177.99	भाग
3.	गौरतरा	सोहागपुर	71	234	शहडोल	67.46	27.30	भाग
4.	नरसरहा	सोहागपुर	78	510	शहडोल	52.78	21.36	भाग
5.	बिचारपुर	सोहागपुर	79	728	शहडोल	291.39	117.92	भाग
6.	पचगांव	सिंहपुर	88	551	शहडोल	23.67	9.58	भाग
7.	दुधी	सिंहपुर	89	445	शहडोल	26.14	10.58	भाग

कुल क्षेत्र : 1543.36 एकड़(लगभग) या 624.57 हेक्टर (लगभग)**सीमा वर्णन:**

- क—ख यह रेखा, बिचारपुर ग्राम के बिन्दु 'क' से आरंभ होती है और फतेहपुर और नरसरहा ग्राम से होकर गुजरती हुई गौरतरा ग्राम के बिन्दु 'ख' पर मिलती है। रेखा 'क'—'ख' इस ब्लॉक की उत्तरी सीमा का भाग है।
- ख—ग यह रेखा ग्राम गौरतरा के बिन्दु 'ख' से आरंभ होती है और फतेहपुर ग्राम से होकर गुजरती हुई दुधी ग्राम के बिन्दु 'ग' पर मिलती है। रेखा 'ख'—'ग' इस ब्लॉक के पूर्वी सीमा का भाग है।
- ग—घ यह रेखा ग्राम दुधी ग्राम के बिन्दु 'ग' से आरंभ होती है और ग्राम बासिन से होकर गुजरती हुई पचगांव ग्राम के बिन्दु 'घ' पर मिलती है। रेखा 'ग'—'घ' इस ब्लॉक के दक्षिणी सीमा का भाग है।
- घ—क यह रेखा ग्राम पचगांव के बिन्दु 'घ' से आरंभ होती है और बासिन ग्राम से होकर गुजरती हुई बिचारपुर ग्राम के बिन्दु 'क' पर जाकर मिलती है। रेखा 'घ'—'क' इस ब्लॉक की पश्चिमी सीमा का भाग है।

[फा. सं. 43015/12/2013—पीआरआईडब्ल्यू—1]

दोमिनिक डुंगडुंग, अवर सचिव

MINISTRY OF COALNew Delhi, the 17th November, 2014

S.O. 2939.—Whereas, it appears to the Central Government that coal is likely to be obtained from the land in the locality described in the Schedule annexed hereto;

And, whereas, the Survey of India Toposheet number 64E/7 (R.F. 1:50000) containing the details of the areas of land described in the said Schedule may be inspected at the office of the General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi or at the office of the Coal Controller, 1, Council House Street, Kolkata - 700001 or at the Office of the District Collector, District of Shahdol, Madhya Pradesh;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal in the land described in the aforesaid Schedule;

Any person interested in the land described in the above mentioned Schedule may—

- (i) claim compensation under sub-section 6 of the said Act for any damage caused or likely to be caused by any action taken under sub-section (3) of section 4 of the said Act; or
- (ii) claim compensation under sub-section (1) of section 13 of the said Act in respect of prospecting license ceasing to have effect or under sub-section (4) of section 13 of the said Act for mining lease ceasing to have effect and deliver all maps, charts and other documents relating to the aforesaid land to show the expenditure incurred in respect of items specified in clauses (i) to (iv) of sub-section (1) of section 13 of the said Act,

to the Office of the General Manager (Exploration Division), Central Mine Planning and Design Institute Limited, Gondwana Place, Kanke Road, Ranchi-834031 (Jharkhand) within a period of ninety days from the date of publication of this notification.

SCHEDULE

Bicharpur East Block, Sohagpur Coalfield

District – Shahdol, Madhya Pradesh

[Toposheet number 64E/7 (R.F. 1:50000)]

Sl. No.	Mouja/ Village	Tahsil	Patwari halkanumber	Bandobast number	District	Area in acres (approximately)	Area in hectares (approximately)	Remarks
1.	Basin	Singhpur	88	707	Shahdol	642.09	259.84	Part
2.	Fatehpur	Singhpur	92	624	Shahdol	439.83	177.99	Part
3.	Gourtara	Sohagpur	71	234	Shahdol	67.46	27.30	Part
4.	Narsarha	Sohagpur	78	510	Shahdol	52.78	21.36	Part
5.	Bicharpur	Sohagpur	79	728	Shahdol	291.39	117.92	Part
6.	Pachgaon	Singhpur	88	551	Shahdol	23.67	9.58	Part
7.	Dudhi	Singhpur	89	445	Shahdol	26.14	10.58	Part
Total area : 1543.36 acres (approximately)							624.57 hectares (approximately)	

Boundary description:

- A-B The line starts from point 'A' in Bicharpur village and meets at point 'B' in Gourtara village passing through the Fatehpur and Narsarha villages. 'A-B' line forms the northern boundary of the block.
- B-C The line starts from point 'B' in Gourtara village and meets at point 'C' in Dudhi village passing through the Fatehpur village. 'B-C' line forms the eastern boundary of the block.
- C-D The line starts from point 'C' in Dudhi village and meets at point 'D' in Pachgaon village passing through the Basin village. 'C-D' line forms the southern boundary of the block.
- D-A The line starts from point 'D' in Pachgaon village and meets at point 'A' in Bicharpur village passing through the Basin village. 'D-E' line forms the western boundary of the block.

[F. No. 43015/ 12/2013-PRIW-I]

DOMINIC DUNG DUNG, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2940.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तेलंगाना राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“तेलंगाना राज्य के नलगोंडा जिले के त्रिपुरारम मंडल में आने वाले राजस्व गाँव की सीमा के अंतर्गत क्षेत्र-पेद्दादेवुलपल्ली और वेमुलापल्ली मंडल में आने वाले राजस्व गाँव की सीमा के अंतर्गत क्षेत्र-गाजुलापुरम”।

[सं. एस-38013/67/2014-एस.एस. 1]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th November, 2014

S.O. 2940.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Talangana namely :—

"The Revenue Village of Peddadevulapally of Tripuraram Mandal and Gajulapuram of Vemulapally Mandal in Nalgonda District of Telangana State."

[No. S-38013/67/2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2941.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2014 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध जम्मू एवं काश्मीर राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्र. सं.	राजस्व ग्राम का नाम/क्षेत्र*	हदवस्त संख्या/होबली*	तहसील/तालुक*	जिला
1	2	3	4	5
1.	जम्मू विकास प्राधिकरण के अंतर्गत आने वाले वे सभी क्षेत्र, जो उन क्षेत्रों के समीपवर्ती हैं जहाँ पहले से ही योजना लागू है, और जहाँ समय-समय पर प्राधिकरण के क्षेत्र का विस्तार होगा।			
2.	गाँव गाडी गढ, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
3.	गाँव गुरहा ब्राह्मणा, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
4.	गाँव दोमाना, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
5.	गाँव नागबनी, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
6.	गाँव पटोली ब्राह्मणा, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
7.	गाँव नरवाल बाला, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
8.	गाँव थंगर, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
9.	गाँव रखराजपुरा, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा
10.	गाँव सरोर, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा

1	2	3	4	5
11.	गाँव राया मोड़, जिला सांबा	संपूर्ण राजस्व गाँव	सांबा	सांबा
12.	गाँव मजीन, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
13.	गाँव बबलियाना, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
14.	गाँव बरनोई, जिला जम्मू	संपूर्ण राजस्व गाँव	जम्मू	जम्मू
15.	नगर समिति/निगम, कटुआ के अंतर्गत आने वाले सभी क्षेत्र।			
16.	संपूर्ण राजस्व गाँव चक राजू, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
17.	संपूर्ण राजस्व गाँव चक राम सिंह, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
18.	संपूर्ण राजस्व गाँव राम सिंह जगतपुर, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
19.	संपूर्ण राजस्व गाँव चक खूनी, जिला कटुआ	संपूर्ण राजस्व गाँव	कटुआ	कटुआ
20.	संपूर्ण SICOP औद्योगिक कम्प्लेक्स, कटुआ जिला कटुआ	संपूर्ण राजस्व गाँव क्षेत्र	कटुआ	कटुआ
21.	IID केन्द्र कटुआ, जिला कटुआ	संपूर्ण राजस्व गाँव/केन्द्र	कटुआ	कटुआ

[सं. एस-38013/68/2014-एस.एस. I]

अजय मलिक, अवर सचिव

New Delhi, the 17th November, 2014

S.O. 2941.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2014 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Jammu and Kashmir namely :—

Sl. No.	Name of the village Area*	Had Bast No./Hobli*	Tehsil/Taluk*	District
1	2	3	4	5
1.	All the area under jurisdiction of Jammu Development Authority (JDA), which are contiguous to the already implemented zones and extended from time to time.			
2.	Village Gadi Gardh Distt. Jammu	Entire Revenue Village	Jammu	Jammu
3.	Village Guraha Brahmana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
4.	Village Domana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
5.	Village Nagbani Distt. Jammu	Entire Revenue Village	Jammu	Jammu
6.	Village Patoli Brahmana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
7.	Village Narwal Bala Distt. Jammu	Entire Revenue Village	Jammu	Jammu
8.	Village Thangar Distt. Jammu	Entire Revenue Village	Jammu	Jammu
9.	Village Rakhrajpora Distt. Samba	Entire Revenue Village	Samba	Samba
10.	Village Sarore Distt. Samba	Entire Revenue Village	Samba	Samba
11.	Village Raya Morh Distt. Samba	Entire Revenue Village	Samba	Samba
12.	Village Majeen Distt. Jammu	Entire Revenue Village	Jammu	Jammu
13.	Village Babliana Distt. Jammu	Entire Revenue Village	Jammu	Jammu
14.	Village Barnai Distt. Jammu	Entire Revenue Village	Jammu	Jammu

1	2	3	4	5
15.All the area falling within limits of Municipal Committee/Corporation Kathua :				
16.Entire Revenue Village Chak Raju, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
17.Entire Revenue Village Chak Ram Singh, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
18.Entire Revenue Village Chak Ram Singh, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
19.Entire Revenue Village Chak Khuni, Distt. Kathua		Entire Revenue Village	Kathua	Kathua
20.Entire SICOP Industrial Complex Kathua, Distt. Kathua		Entire Revenue Village/ Complex	Kathua	Kathua
21.IID Centre Kathua, Distt. Kathua		Entire Revenue Village/ Centre	Kathua	Kathua

[No. S-38013/68/2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2942.—जबकि मैसर्स कोका-कोला इंडिया इनक, (कोड संख्या एचआर/जीजीएन/10374 के अंतर्गत गुडगांव क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदस्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्वधीन उक्त प्रतिष्ठान को 19-10-2007 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/105/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध**कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें**

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों

के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय

अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं।

पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित)

के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने की स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का

भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादि के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2942.—Whereas M/s. Coca-Cola India Inc. [under Code No. HR/GGN/10374 in Regional Office, Gurgaon] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions

of the said Scheme with effect from 19-10-2007 until further notification.

[No. S-35015/105/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government),

with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central

Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2943.—जबकि मैसर्स हिन्दुस्तान चेरिटी ट्रस्ट, (कोड संख्या डब्ल्यूबी/42498 के अंतर्गत उप-क्षेत्रीय कार्यालय, पार्क स्ट्रीट में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन उक्त प्रतिष्ठान

को 01-01-2008 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/83/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

(i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और

(ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना

जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्तहीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादि के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2943.—Whereas M/s. Hindustan Charity Trust [under Code No. WB/42498 in Sub-Regional Office, Park Street] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-01-2008 until further notification.

[No. S-35015/83/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be

given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and.
 - (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.
2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.
 3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.
 4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.
 5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
 6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
 7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.
 8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government

from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other

institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2944.—जबकि मैसर्स एक्सिस बैंक लिमिटेड (कोड संख्या एमएच/45239 के अंतर्गत बांद्रा क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार, उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, उक्त प्रतिष्ठान को 01-09-2013 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/94/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक

न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 थ के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और

सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी

चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के नाम पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन

पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य

निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2944.—Whereas M/s. Axis Bank Limited [under Code No. MH/45239 in Regional Office, Bandra] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-09-2013 until further notification.

[No. S-35015/94/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

(i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and

- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.
2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.
3. All employees' as defined in section 2(f) of the Act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.
4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.
5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.
8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.
9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.
10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.
11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.
12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.
13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.
14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.
15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.
16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.
17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.
18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall

inform the Regional Provident Fund Commissioner concerned about the same.

- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the

event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

- 24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.
- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer

of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2945.—जबकि मैसर्स टाटा हाउसिंग डेवलपमेंट कंपनी लिमिटेड (कोड संख्या एमएच/35195 के अंतर्गत बांद्रा क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत सदृश्य स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में दी जाने वाली अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्वधीन उक्त प्रतिष्ठान को 01-01-1991 से अगली अधिसूचना तक उक्त योजना के सभी उपबंधों के प्रभाव से छूट प्रदान करती है।

[सं. एस-35015/110/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

(i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और

(ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तारित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डिक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार

द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्ति अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने की स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षित तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूंजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभागों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 18th November, 2014

S.O. 2945.—Whereas M/s. Tata Housing Development Company Limited [under Code No. MH/35195 in Regional Office, Bandra] (hereinafter referred to as the establishment) has applied for exemption under

clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 01-01-1991 until further notification.

[No. S-35015/110/2014-SS-II]

SUBHASH KUMAR, Under Secy.

ANNEXURE

CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES' PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the

Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time

frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the

Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this

office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident Fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2946.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार

निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय हैदराबाद के पंचाट (संदर्भ संख्या 54/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42025/03/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 54/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat sanchar Nigam Limited and their workman, which was received by the Central Government on 05/11/2014.

[No.L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present: Smt. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 8th day of October, 2014

INDUSTRIAL DISPUTE L.C.No.54/2006

Between:

Sri K.V.V. Prasad,
S/o Ramaiah,
C/o Pala Venkat Rao,
Gaddalagunta Palem,
Ongole,
Prakasam District.

...Petitioner

AND

1. The Chief General Manager
(Telecom), B.S.N.L.,
A.P. Circle,
Door Sanchar Bhawan,
Nampally Station Road,
Hyderabad.

2. The General Manager
(Telecom), B.S.N.L.,
Ongole,
Prakasam district.

...Respondents

Appearances:

For the Petitioner : M/s. V. Govinda Rajulu & A.V.
Rama Rao, Advocates

For the Respondent : Sri MC. Jacob, Advocate

AWARD

This petition filed invoking Sec.2 A (2) of the I.D. Act, 1947 by Sri K.V.V. Prasad, the workman seeking for declaring the action of the Respondents in disengaging the Petitioner as illegal, void, arbitrary and contrary to the provisions of Industrial Disputes Act, 1947 and the Indian Constitution and consequently direct the Respondents to reengage the Petitioner and regularize his services with all consequential benefits.

2. The averments made in the petition in brief are as follows:

Petitioner was appointed as casual mazdoor in the Respondent organization and worked without any complaint till September, 1999 and further upto 31.12.2000 on ACG-17, on voucher payment under SDOT, Ongole as and when the work exists. From 1.6.1984 to 31.8.1992 he worked for 1818 days under the Assistant Engineer, Railway Electrification (P&T) Madras; from 1.8.1993 to 31.1.1994 he worked for 152 days; from 31.3.1996 to 31.12.1996 worked for 282 days; from 31.1.1997 to 31.12.1997 for 231 days; from 1.1.1998 to 31.8.1998 for 225 days – he worked under SDOT, Ongole and from 1.9.1998 to 30.9.1999 he worked under SDE (F-10B) New Telephone, Ongole for 273 days. Thus, the Petitioner worked for 2981 days in total in the Respondent organization as casual mazdoor. Thereafter he was engaged on ACG -17 basis till 31.12.2000. Since 1.10.2001 he was not reengaged and he was not regularized as in the case of other casual mazdoors who were regularized though they are juniors to the Petitioner in all aspects. Since the year 2001 the officials of the 2nd Respondent office informing the Petitioners that they will reengage him whenever there is work and subsequently regularization shall be made. But for the reasons not known to the Petitioner he was never reengage till date in any kind of work. He worked for more than 240 days in the year 1996 and 1998-99. He did not stop away from work at any point of time on his volition. Disengagement of the Petitioner is illegal, dishonest and enforceable. Respondent reengaged number of his juniors as mazdoors and they were regularized by granting temporary status in Group-D posts. Petitioner possesses the requisite qualification for reengagement and conferment of temporary status and for regularization of his service. Despite making representations to the Respondents his case was not considered. The last representation is made on 19.5.2005. The action of the management is in violation of Articles 14 & 16 of the Indian Constitution and violation of Sections 25(F), 25(H) and 25(G) of Industrial Disputes Act, 1947. Since the Petitioner has been working since the year 1984 and disengaged from 1.1.2001, the case of the Petitioner for regularization is very much prior to the year 1998, thus,

the imposition of ban in recruitment in Bharat Sanchar Nigam Ltd., is not applicable to the case of the Petitioner. Hence, the petition.

2. Respondents filed a counter with the averments in brief as follows:

Petitioner never worked under SDOT, Ongole. The working days certificate submitted by the Petitioner in the Railway Electrification Project was found bogus and as such he was given one month notice by proceedings dated 7.12.1993 and his engagement was terminated w.e.f. 1.4.1994 by proceedings dated 28.3.1994. Since his services were terminated for producing bogus certificates after giving 30 days of notice of termination, the entire contentions made by the Petitioner are liable to be rejected. The question of seniority etc claimed by the Petitioner does not arise. Petitioner's contention that authorities told him that he will be reengaged subsequently etc are brought in only for the purpose of this proceedings and is liable to be rejected. His contention that he worked till September, 1999 and worked upto 31.12.2001 on ACG-17 is specifically denied. The list of casual mazdoors engaged by the Respondents during the said period does not bear Petitioner's name. The contentions raised basing on the working days is also liable to be rejected. The Petitioner's contentions regarding the period of work is denied and the certificate produced by the Petitioner in this regard was found bogus and he was disengaged by the authorities on 1.1.1994. since he was never engaged, question of regularization on completion of 240 days etc., will not arise as per rules. No one by name the Petitioner worked with the Department during the period upto 31.12.2000. Contentions of the Petitioner that the Respondent authorities violated proceedings of Industrial Disputes Act, 1947 and Constitution of India is untenable and liable to be rejected. Petitioner never challenged the proceedings issued as early as 17.12.1993 and 28.3.1994 wherein he was directed to produce the original documents for verification of work days before 30.11.1993 and he could not produce the certificates. The present proceedings attract delay, latches on the part of the Petitioner. Petitioner is not entitled for any of the reliefs sought for and the petition is liable to be dismissed with costs.

3. To substantiate the contentions of the Petitioner he examined himself as WW1 and marked Ex.W1 to W7. On behalf of the Respondent management, chief examination affidavit of MW1 was filed. But MW1 was not cross examined for the Petitioner though the said witness was present again and again before the court and ample opportunity was given to the Petitioner to cross examine him. Through MW1, Ex.M1 to Ex.M3 marked.

4. Heard the arguments.

5. The points that arise for determination are:-

- I. Whether the action of the Respondent management in disengaging the Petitioner is illegal, void, arbitrary and contrary to the provisions of Industrial Disputes Act, 1947 and Indian Constitution and if so on what grounds?
- II. Whether the Petitioner is entitled for the reliefs sought for?

6. Point No.I:

It is the contention of the Petitioner that he worked as casual mazdoor with the Respondent organization for about 2981 days, but his services were not regularized and temporary status in Group-D category was never confirmed on him though he was entitled for the same and on the other hand he was disengaged by the Respondent organization since 1.1.2001, which is neither legal nor justified. He is relying upon his own evidence as WW1 and Ex.W1 to W7 in this regard.

7. Ex.W1 is the Photostat copy of representation dated 19.5.2002 said to have been given by the Petitioner to the Respondent organization. This documents does not bear signature of the Petitioner or any other person. It does not bear any acknowledgement of the Respondent authorities to show that this representation was actually submitted to the Respondent organization by the Petitioner. Ex.W2 is said to have been a certificate issued by Asst. Engineer, Railway Electrification, which is a copy of the document but not original. The signatory of this document is not examined to prove the same. Same is the case with Ex.W3 to W7, the copies of mazdoor days certificates. The person who issued these documents is not examined before the court by the Petitioner. This lapse assumes importance in this case since it is the contention of the Respondent that Petitioner's services were terminated by the Respondent since it was found that the service certificates produced by him were not genuine documents and when he was asked to produce original service certificates in the year 1994, he failed to produce the same his services were terminated by virtue of order dated 28.3.1994 after giving due notice to him. The fact remains that even in the present petition proceedings, Petitioner never produced any original certificates.

8. To substantiate the contentions of the Respondent that the services of the Petitioner were terminated by virtue of orders dated 28.3.1994, Respondent produced the attested copies of proceedings dated 28.3.1994 and also 17.12.1993. They also produced attested copy of mazdoor list from 1993 to 1998 to show that Petitioner never worked as mazdoor with the said organization during this period. The evidence of MW1 remains unchallenged, as the Petitioner never chosen to cross examine MW1 inspite of giving ample opportunity to

him. MW1 categorically stated in his deposition that the working days certificate submitted by the Petitioner in the Railway Electrification Project was found to be bogus and as such he was given one month notice vide proceedings dated 17.12.1993 and his engagement was terminated w.e.f. 1.4.1994 by proceedings dated 28.3.1994, for submission of bogus certificates. He categorically contended that the contention of the Petitioner that he worked with Respondent organization upto 31.12.2001 is totally incorrect and that the mazdoor list maintained by the Respondent organization clearly show that Petitioner never worked with the said organization as being claimed by him.

9. In view of the above discussion, evidence on record, it is very much clear that the contentions put forth by the Petitioner are far from truth and that his services were disengaged by the Respondent organization by virtue of proceedings dated 28.3.1994 for the reason that he produced bogus service certificates, and that there is no truth in the contentions of the Petitioner that he was disengaged by the Respondent corporation from 1.1.2001.

This point is answered accordingly.

10. Point No. II:

In view of the finding given in Point No.I, Petitioner is not entitled for any of the reliefs sought for.

This point is answered accordingly.

Result:

In the result, petition is dismissed.

Award passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri K.V.V. Prasad	MW1: Sri I. Srinivasa Rao
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Documents marked for the Petitioner

- Ex.W1: Photostat copy of representation by WW1 to Respondent dt.19.5.2005
- Ex.W2: Photostat copy of service certificate for the period from 1.6.1984 to 31.1.1992
- Ex.W3: Photostat copy of mazdoor days certificate for the period from 1.8.1993 to 31.1.1994
- Ex.W4: Photostat copy of mazdoor days certificate for the period from 21.3.1996 to 31.12.1996
- Ex.W5: Photostat copy of mazdoor days certificate for the period from 31.1.1997 to 31.12.1997
- Ex.W6: Photostat copy of mazdoor days certificate for the period from 1.1.1998 to 31.8.1998

Ex.W7: Photostat copy of mazdoor days certificate for the period from 1.9.1998 to 31.5.1999

Documents marked for the Respondent

- Ex.M1: Photostat copy of mazdoor list from 1993 to 1998
- Ex.M2: Photostat copy of proceedings dated 17.12.1993
- Ex.M3: Photostat copy of proceedings dated 28.3.1994
- नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2947.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान परमाणु विद्युत घर यूनिट 1-6 के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 66/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/05/2006-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2947.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 66/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Parmanu Vidyut Ghar Unit 1 to 6 and their workmen, which was received by the Central Government on 05/11/2014.

[No.L-42012/05/2006-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D.66/2006

Reference No.L-42012/5/2006-IR(DU)
dated: 28.9.2006

The Gen. Secretary
Rajasthan Anushakti Pariyojna
Karamchari Sangh, (INTUC)
Pratap Circle, Rawatbhata Via Kota
Rawatbhata (Kota)-323307.

V/s

The Station Director
Rajasthan Parmanu Vidyut Ghar
Unit 1 to 6, Rawatbhata (Kota).

Present:

For the Applicant Union : None.

For the Non-applicant : Sh. Dharmendra Jain, Adv.

AWARD

30.9.2014

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the demand of the Rajasthan Anushakti Pariyojna Karamchari Sangh for grant of Promotion to Shri Deepak Anjana as skilled ‘D’ w.e.f. 1.11.2001 is legal & justified? If yes, to what relief the workman concerned is entitled to and from which date?”

2. Pursuant to the reference order dated 28.9.2006 a case was registered as CGIT case no,66/2006. Registered notices were sent to both the parties on 21.11.2006 fixing 20.12.2006 for filing of claim. The court became vacant on 4.7.2006 due to retirement of the then Presiding Officer Sh. R.C.Sharma. Regional Labour Commissioner Sh. M.C.Sharma was in-charge of the court & the case was registered under his seal & signature. Notices sent vide order dated 16.11.2006 were treated not served because of non receipt of the acknowledgement back to the court.

3. The next presiding officer took charge on 3.9.2009 & judicial working started taking place in the file for advancement of the case. As per order dated 27.11.2009 notices were sent to both the parties fixing 6.1.2010 for filing statement of claim. Acknowledgement concerned with applicant as well as opposite party is available on record which indicates that notices have been served upon the parties. On 21.5.2010 learned counsel for opposite party appeared & filed his vakalatnama on behalf of Station Director. Vakalatnama has been filed by learned counsel for the applicant on 23.12.2010 & opportunity has been given for filing statement of claim by 3.3.2011. Prior to 3.3.2011 on 28.10.2010 opportunity was given to applicant to file statement of claim & authority letter by 23.12.2010 & further this opportunity of filing statement of claim was extended till 3.3.2011.

4. Orders sheet dated 3.3.2011 indicates that time was taken by applicant to get the statement of claim signed so that the same may be filed by next date hence, till 11.4.2011 opportunity was given to file statement of claim. On 11.4.2011 also statement of claim was not filed & it was alleged that after securing the signature statement of claim will be filed hence, 27.6.2011 date fixed for filing statement of claim. On 27.6.2011 claim was not filed. After 27.6.2011 eighteen dates have been given but till now statement of

claim has not been filed. On 1.4.2014 representative of the union Sh. P.B. Sharma (Retired) appeared & moved adjournment for time to file statement of claim which was granted with last opportunity & 1.5.2014 was fixed for filing statement of claim yet claim was not filed. On 1.5.2014 none appeared from both sides & 3.6.2014 was fixed for further order. On 3.6.2014 Presiding Officer was on leave, applicant was absent & opposite party was present. Next date 7.7.2014 was fixed on 3.6.2014. From 7.7.2014 till 15.9.2014 learned counsels were on strike hence no adverse order was passed for not filing statement of claim. On 25.8.2014 date was fixed for filing statement of claim by 15.9.2014 but after the end of the strike by the learned counsels also statement of claim has not been filed till date fixed on 29.9.2014.

5. Looking into above facts & circumstances & the lack of the interest in applicant to continue proceeding of the case & non-appearance, the case was reserved for award.

6. It is evident from the entire proceeding taken up by the tribunal to adjudicate the reference that the applicant is not interested in bringing the claim for adjudication before the tribunal. Long interval between the date of service of notice & date of reservation of award has failed to peruse the applicant to file the claim although at one occasion on 3.3.2011. It has been alleged that only signature of applicant is required before filing the statement of claim. It is pertinent to note that applicant has been served in person & acknowledgement is available on record. Beside this it is also important to note that the Hon'ble Ministry vide reference order dated 28.9.2006 has mandated the applicant to file the case before the tribunal within 15 days from the date of receipt of the reference forwarding the copy of such statement of claim to opposite parties involved in the dispute. Failure on the part of applicant to comply of the order of the Ministry & direction of the court to file statement of claim is indicative of the fact that applicant is not having any interest to pursue the case further. Under above circumstances, no material could be brought on record for adjudication of the reference order under consideration on merits, therefore, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2948.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत हैवी इलेक्ट्रिकल्स लिमिटेड, रानीपेट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 64/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/55/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2948.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 64/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Heavy Electricals Ltd., Ranipet and their workmen, which was received by the Central Government on 05/11/2014

[No.L-42011/55/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT CHENNAI

Tuesday, the 21st October, 2014

Present:

K. P. PRASANNA KUMARI, Presiding Officer

INDUSTRIAL DISPUTE No. 64/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Bharat Heavy Electricals Ltd. and their workman)

BETWEEN :

The General Secretary

Anaithu Oppandha

Thozhilalar Sangam

BAP/BHEL/Ranipet

Chennai-632406

1st Party/Petitioner

AND

The Senior Manager/HR-IR

Bharat Heavy Electricals Ltd.

Boiler Auxiliaries Plant,

Indira Gandhi

Industrial Complex

Ranipet

Chennai-632406

2nd Party/Respondent

Appearance:

For the 1st Party/ : Sri S. Parthasarathi, Advocate
Petitioner

For the 2nd Party/ : Sri F.B. Benjamin George,
Management Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/55/2014-IR (DU) dated 05.08.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of BHEL, Ranipet in not considering the charter of demands of the representative of the Petitioner Union is justified or not? If not, to what relief the employees are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 64/2014 and issued notices to both sides. Both sides entered appearance through their counsel.

3. Though Vakalat was filed on behalf of the petitioner, the petitioner has failed to file Claim Statement in spite of repeating postings. The petitioner as well as the counsel were continuously absent also. The petitioner seems to be not interested in pursuing the case. No material of any kind has been tendered to justify an award. So the reference is answered against the petitioner.

4. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2949.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राष्ट्रीय वस्त्र निगम लिमिटेड और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 69/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/18/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2949.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 69/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Textiles Corporation Ltd. and Others and their workman, which was received by the Central Government on 05/11/2014.

[No. L-42011/18/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Wednesday, the 15th October, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 69/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of National Textiles Corporation Ltd., Coimbatore and Another and their workmen)

Between :

- | | |
|---|---|
| 1. The Secretary
Anna Panchalai Thozhilalar Sangam
(ATP)
M/s. Pioneer Spinners,
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/1 st Petitioner
Union |
| 2. The Secretary
Dr. Ambedkar Thozhilalar Sangam
M/s. Pioneer Spinners,
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/2 nd Petitioner
Union |
| 3. The Secretary
Mill Thozhilalar Sangam (AITUC)
M/s. Pioneer Spinners,
Kamudhakudi,
Paramakudi Taluk,
Ramanathapuram Distt. | : 1 st Party/3 rd Petitioner
Union |

AND

- | | |
|---|--|
| 1. The General Manager
National Textiles Corporation Ltd.
SRO, NTC House, PO Box No. 2409
25-B, Somasundaram Mills Road
Coimbatore-641009 | : 2nd Party/1 st Respondent |
| 2. The General Manager
M/s. Pioneer Spinners
Kamudhakudi, Paramakudi Taluk,
Ramanathapuram-623719 | : 2nd Party/2 nd Respondent |

Appearances:

- | | |
|---|--|
| For the 1st Party/
Petitioner Unions | : M/s. Ramapriya
Gopalakrishnan, Advocate |
| For the 2nd Party/
Management | : M/s. T. S. Gopalan & Co.,
Advocates |

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/18/2013-IR(DU) dated 24.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the NTC Management Southern Region/Coimbatore and M/s. Pioneer Spinners Mill, Kamudakudi in respect of not allowing the Petitioner Unions to raise Industrial Dispute for common/general issues which fall under Industrial Disputes Act, 1947 is justified or not? To what relief the unions are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 69/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

- | | |
|-------------------------------------|--------|
| For the 1st Party/Petitioner Unions | : None |
| For the 2nd Party/Management | : None |

Documents Marked

On the Petitioner's side

Ex. No.	Date	Description
		Nil

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राष्ट्रीय वस्त्र निगम लिमिटेड, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 70/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/19/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

S.O. 2950.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the National Textiles Corporation Ltd. and their workman, which was received by the Central Government on 05/11/2014.

[No. L-42011/19/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 15th October, 2014

Present :

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 70/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of National Textile Corporation Ltd., Coimbatore and their workmen)

BETWEEN

The Secretary : 1st Party/Petitioner
Sivagangai District Workers Union
Union (AITUC)
1/87, Thondi Road
Kalayarkoil
And Three Others

AND

The Sr. Manager (HR)-L : 2nd Party/
National Textile Corporation Ltd. Respondent
NTC House, P.O. Box No. 2409
35-B, Somasundaram Mills Road
Coimbatore - 641009

Appearance:

For the 1st Party/ : M/S. Ramapriya Gopalakrishnan,
Petitioner Union Advocate

For the 2nd Party/ : M/s. T. S. Gopalan & Co.,
Management Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/19/2013-IR(DU) dated 24.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the management of NTC Ltd., Kalayarkoil in respect of not considering the demands of the non-recognized Union is justified or not? To what relief the representatives of the Petitioner Unions are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 70/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, श्री रंगाविलास ओटाई स्पिनिंग एंड वीविंग मिल्स, कोयम्बटूर, के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 50/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/212/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 7th November, 2014

AWARD

S.O. 2951.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 50/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Sri Rangavilas Ginning Spinning & Weaving Mills, Coimbatore and their workmen, which was received by the Central Government on 05/11/2014.

[No. L-42011/212/2012-IR(DU)]

P. K. VENUGOPAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 15th October, 2014**Present :**

K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 50/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Rangavilas Ginning, Spinning and Weaving Mills and their workmen)

BETWEEN

The Secretary : 1st Party/
Coimbatore Erode District : Petitioner
Dravida Panchalai : Union
Thozhilalar Munnetra Sangam (MLF)
VKK Menon Road,
Sidhdhapudur
Coimbatore-641044

AND

The General Manager : 2nd Party/
Sri Rangavilas Ginning Spinning : Respondent
and Weaving Mills,
333, Avinashi Road,
PO Box No. 1604, Peelamedu Post)
Coimbatore

Appearance:

For the 1st Party/ : M/s. Ramapriya Gopalakrishnan,
Petitioner Union : Advocate

For the 2nd Party/ : M/s. T. S. Gopalan & Co.,
Management : Advocates

The Central Government, Ministry of Labour & Employment, vide its Order No. L-42011/212/2012-IR(DU) dated 15.04.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

“Whether the action of the management of Sri Rangavilas Ginning, Spinning and Weaving Mills, Coimbatore in respect of not holding discussions with Petitioner Unions viz. MLF, AITUC, ATP, HMS and BMS for engaging woman workers during third shift and introducing Contract Labour system in the permanent vacancies is justified or not? To what relief the petitioners are entitled to?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID No. 50/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed claim and counter statement respectively.

3. The case has been repeatedly posted for enquiry. However, the petitioner as well as the counsel are absent. The petitioner has not taken steps to proceed with the trial in spite of repeated postings and directions. So, it is to be presumed that the petitioner is not interested in proceeding with the case. Therefore the ID is closed.

The reference is answered accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ बैडोदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय अरूनाकुलम के पंचाट (संदर्भ संख्या 4/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/78/2009-आईआर (बी.-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 4/2010) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the management of the Bank of Baroda and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/78/2009-IR(B-II)]

RAVI KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present:

Shri.D.Sreevallabhan, B.Sc., LL.B, Presiding Officer

(Wednesday the 27th day of July, 2014/5th Bhadrapada, 1936)

ID 4/2010

Workman : Shri K Vijayakumaran Nair T.C.41/1171,
Lalitha Bhawan ARWA-2, Kuriathi
Manacaud P O Thiruvananthapuram

By Adv. Shri M S Vijayachandra Babu

Management : The General Manager(SZ) Bank of Baroda
Zonal Office 90, CP Ramaswamy Road,
Alwar Pet Chennai

By M/s. B. S. Krishnan Associates

This case coming up for final hearing on 13.08.2014 and this Tribunal-cum-Labour Court on 27.08.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India/Ministry of Labour vide its Order No-L-12011/78/2009-IR(B-II) dated 23.11.2009 has referred the industrial dispute Scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

“Whether the action of the management of Bank of Baroda in removing Shri K Vijayakumaran Nair, ex-Computer Operator working at its Thodupuzha Branch from the service of the bank was proper and justified? To what relief he is entitled to?”

3. The workman had joined as Stenographer in the service of the management bank in 1981. While he was working as Computer Operator at the Fort Branch,

Trivandrum he was transferred to Thodupuzha Branch on 11.08.2005. He had joined there on 19.08.2005. While he was working there disciplinary action was initiated against him by issuing chargesheet dated 10.08.2006. The charges levelled against him are as under:-

- “1. Willful damage or attempt to cause damage to the property of the Bank or any of its customer under clause 5(d) of the Bipartite Settlement.
2. Willful insubordination or disobedience of any lawful and reasonable order of the management or of a superior- under clause 5(e) of Bipartite Settlement.
3. Doing act prejudicial to the interest of the Bank or gross negligence or negligence involving or likely to involve the bank in serious loss- under clause 5(j) of Bipartite Settlement.
4. Remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days under clause 5(p).
5. Failure to submit details of your assets and liabilities – under clause 37(ii) of the Bipartite Settlement dated 2.6.2006.
6. Incurring debts to an extent considered by the management as excessive – under clause 7(1) of Bipartite Settlement.
7. Absence without leave – under clause 7(a) of the Bipartite Settlement.
8. Unpunctual or irregular attendance – under clause 7(b) of the Bipartite Settlement.
9. Neglect of work or negligence in performing duties – clause 7(c) of the Bipartite Settlement.”

4. The charges levelled against him are on the basis of the allegations in the charge sheet which reads as follows:

“1. You were relieved from Fort Branch, Trivandrum on 11.08.2005 on your transfer to Thodupuzha branch and consequently, your SOD account with Fort Branch, Trivandrum was closed. Although the account was closed, you did not surrender the remaining/unused cheque leaves nor you informed details of the cheques in your possession/cheques already issued by you in respect of the said account. The following cheques of your closed SOD account presented at Fort branch, Trivandrum, were to be returned unpaid:

- (i) Cheque No.24934 dated 7.11.2005 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 7.11.2005.

- (ii) Cheque No.211614 dated 8.11.2005 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 8.11.2005.
- (iii) Cheque No.211615 dated 05.12.2005 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 6.12.2005.
- (iv) Cheque No.24935 dated 7.12.2005 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 07.12.2005.
- (v) Cheque No.211616 dated 05.01.2006 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 6.01.2006.
- (vi) Cheque No.24936 dated 09.01.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 09.01.2006.
- (vii) Cheque No.211617 dated 05.02.2006 for ₹ 1371/- favouring HSBC Bank presented at Fort branch, Trivandrum & returned on 7.02.2006.
- (viii) Cheque No.24937 dated 08.02.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 08.02.2006.
- (ix) Cheque No.211617 dated 05.02.2006 for ₹ 1371/- favouring HSBC Bank re-presented at Fort branch, Trivandrum & returned on 14.02.2006.
- (x) Cheque No.24938 dated 07.03.2006 for ₹ 1910/- favouring HDFC Bank presented at Fort branch, Trivandrum & returned on 08.03.2006.
- (xi) Cheque No.24939 dated 07.04.2006 for ₹ 1910/- favouring HDFC Bank returned on 08.04.2006.
- (xii) Cheque No.24940 dated 07.05.2006 for ₹ 1910/- favouring HDFC Bank returned on 08.05.2006.
- (xiii) Cheque No.24941 dated 7-6-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-6-06.
- (xiv) Cheque No.24942 dated 7-7-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-7-06.
- (xv) Cheque No.24943 dated 7-8-06 for ₹ 1910/- fvg. HDFC Bank returned on 8-8-06.

2. Our Thodupuzha branch has received the following written complaints regarding your conduct of financial matters:

- (i) Complaint received on 6.12.2005 from one Ms.K Radhamma from Trivandrum stating that you borrowed ₹ 25,000/- from her in July, 2004, (while you were posted at Fort, Trivandrum branch), which is not repaid.
- (ii) Complaint dated 25.04.2006 from one Mr. P.A.Ashraff, Thodupuzha, stating that you have borrowed ₹ 23,000/- from him which is not repaid.

3. You were issued letter No.BR:STF:13/281 dated 26.4.2006 by Thodupuzha branch to submit statement of your assets and liabilities within 4 days. However you failed to comply with the instructions.

4. Thodupuzha branch has also reported about complaints/calls over phone received from the following persons:

- | | |
|------------|---|
| 20.09.2005 | - Call from SBI Card Manager Mr. Ajit. |
| 29.10.2005 | - One Mr.Suresh from HDFC Bank Credit Card Dvn, Trivandrum called at 10 a.m. |
| 14.11.2005 | - Call from Trivandrum at 5.30 pm revealing that the call is from Police Commissioner, Trivandrum. Identifying Mr. Abdullah Ahmed, talked regarding loan of ₹ 40,000/- from HDFC Bank. Again there was a call for you at around 6.20 pm |
| 13.12.2005 | - One Ms.Radhamma called from Trivandrum for ₹ 25,000/- plus interest for one and half years. Her complaint in writing was received on 6.12.2005. |
| 13.12.2005 | - call from HSBC Bank around 2 pm. |
| 13.03.2006 | - One Mr. Jibu came and told that you borrowed ₹ 15,000/- from Mangattukavala area and ₹ 3,000/- & ₹ 2,000/- from different persons. |
| 20.04.2006 | - Call from Mr.Arun, HDFC Bank, Trivandrum regarding ₹ 70,000/- overdues. |
| 21.04.2006 | - Call from Mr.Biju John, HDFC Bank, Cochin regarding ₹ 70,000/- overdues. |
| 24.04.2006 | - One Chandra from Kizhakkekkotta called regarding dues of ₹ 10,000+ ₹ 13,000/-. |

5. You had remained unauthorisedly absent from 17.04.2006 to 24.06.2006. In the recent past, you were absent on the following dates

8.11.2005, 9.11.2005, 18.11.2005, 5.12.2005 & 6.12.2005.

Your loss of pay as on 25.6.2006 stands at 181 days.

6. On 30.1.2006 around 1.20 pm you shouted at Ms. Smilu Babu, Agrl. Officer, in the Banking Hall as under:

“Why you are telling that I am pretending to be sick, when I am actually sick”

On 6.4.2006 around 11.40 am, Mr. P B Sasi, a customer tendered cash along with paying in slip to the cashier Mr. V. Krishnankutty. He (Cashier) asked you to put the receipts serial number. You then shouted at the cashier why he has accepted the cash before scrolling.

It is also reported that there are occasional outbursts from you in the Banking Hall which adversely affect the Bank's image/business.

7. It is reported that while you were working as Computer Operator at Thodupuzha Branch, one Ms. Sujathamol, holder of SB a/c No.3218 had handed over to you ₹ 800/- in cash along with pay-in-slip for crediting the amount in her SB a/c. You had accepted the cash from her on that day and entered the amount in passbook and initialed for having received and credited the amount for ₹ 800/- in her SB account. However, on her next visit to the branch on 22-6-06 for withdrawing, she noticed that the balance in her SB account was only ₹ 100/- and ₹ 800/- handed over to you on 10-10-05 has not been accounted for, although necessary entry of depositing ₹ 800/- was made by you in the passbook. It has resulted in complaint made by her vide letter dated 22-6-06 to Branch Manager with regard to non-credit of ₹ 800/- in her account. You have not deposited ₹ 800/- in the above account and also made false entry in SB passbook given to Sujathamol. Further you had admitted the same vide your letter dated 11-7-2006".

5. Mr. M C George, Senior Branch Manager, Aluva Branch was appointed as the enquiry officer to enquire into the charges levelled against him. After conducting enquiry the enquiry officer submitted enquiry report after finding that all the charges except charge Nos.7 and 8 levelled against him were proved in the enquiry. The disciplinary authority accepted the findings and imposed the penalty of “Removal from Bank's service with superannuation benefits, i.e. Pension and/or PF Gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time”. The workman filed an appeal challenging the imposition of penalty before the Appellate Authority. The Appellate Authority did not interfere with the order of the disciplinary authority but as the wording of punishment was not in conformity with the Memorandum of Settlement on Disciplinary Action Procedure dated 10.04.2002 it was changed as “Removal

from the service with superannuation benefits i.e., pension and/or provident fund and gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time and without disqualification from future employment”.

6. After appearance before this Tribunal workman filed claim statement challenging the validity of the enquiry on the grounds that there is violation of the principles of natural justice in conducting the enquiry and that the findings of the enquiry officer are perverse as the same were entered into without having proper appreciation of the evidence. The legality of the punishment imposed on him is challenged on the ground that it is grossly disproportionate to the gravity of the charges levelled against him. The allegations in the chargesheet are disputed by stating that the 15 cheques, each one not exceeding ₹ 1,910/-, were issued for loan repayment to HDFC, HSBC Bank and SBI from his staff overdraft account maintained in the Fort branch before his transfer to Thodupuzha branch and that those cheques were happened to be bounced since his account in the Fort branch was closed after his transfer. The bouncing of the cheques was not on financial reasons but on technical grounds. Later he paid the amount and cleared the dues. Out of the total amount of ₹ 48,000/- borrowed from Smt K Radhamma and Shri PA Ashraff ₹ 45,500/- was repaid and the balance amount of ₹ 2,500/- was also repaid subsequently. He had submitted the statement of assets and liabilities on 02.05.2006 and it was not verified by the enquiry officer. There is no evidence in the enquiry to prove that the calls received over phone were either from borrowers or their representatives. The unauthorized absence was due to the refusal of the branch Manager to permit him to rejoin duty after his treatment in Chelsa Hospital, Trivandrum from 17.04.2006 to 24.06.2006. When he had approached with medical certificate to rejoin duty he was directed to appear before the medical board of Idukki District for medical examination but the medical board did not conduct any medical examination. On realizing it the Regional Office directed the branch authorities to permit him to rejoin duty. There is no unauthorized absence from duty and the absence from duty was solely due to the unreasonable and unjustifiable stand taken by the branch authorities in not allowing him to join duty without report from the medical board. There is no evidence to prove the allegations as to shouting against colleagues and the non-remittance of amount given by Smt Sujathamol. At the time of removal from service he was at the age of fifty two years and was having twenty six years of service. The management credited the provident fund and gratuity amount towards the loan amount availed by him for constructing a residential building without a proper application and without considering his request for selling the house and remitting the dues to the bank. It is due to the personal interest of the Manager of the Thodupuzha branch all the minor

issues were clubbed together to make a major charge against him. The removal from service is illegal and hence he is entitled for reinstatement with continuity of service and all other consequential benefits.

7. Management filed written statement reiterating the charges and the supporting allegations in the chargesheet and contending that the enquiry was conducted in accordance with law and in full compliance with the principles of natural justice. All the charges except charge Nos.7 & 8 were found to be proved by the enquiry officer after having a proper appreciation of the evidence in relation to the charges levelled against him. The disciplinary authority imposed the punishment based on the findings of the enquiry officer and after considering all the aspects of the case and the submissions of the workman. The appeal preferred by him before the Appellate Authority was dismissed and it is not correct to say that the punishment was modified by the Appellate Authority. The punishment imposed on him is not disproportionate to the gravity of the misconducts proved against him and it is proper, legal and justified. He had a previous history of being punished for issuing cheques without having sufficient funds in his account and also for other financial indiscipline. At the time of removal from service an amount of ₹ 9,13,318/- was due to the management bank and the same was adjusted from his terminal benefits and the balance amount of ₹ 1,37,093/- was credited to his housing loan account No.2. Those adjustments were made as per his oral request. Management has also granted permission to sell his house which was mortgaged with the bank subject to certain conditions. Afterwards the workman settled all the dues and the title deeds of his properties were released. There is no need to interfere with the punishment imposed on him and an award can be passed holding that the removal of the workman from service is proper and justified and hence he is not entitled to any relief.

8. Workman did not file any rejoinder.

9. As the validity of the enquiry was under challenge it was heard treating it as a preliminary issue. For the purpose of deciding it management produced the enquiry file and got it marked as Ext.M1 by examining the enquiry officer as MW1. After hearing both sides the enquiry was found to be invalid vide order dated 24.11.2011. After that management was given opportunity to adduce evidence to prove the charges levelled against the workman in view of the request made in the written statement. Four more witnesses were examined from the side of the management as MWs 2 to 5 and some of the documents in the enquiry file were got marked as Exts.M1(a) to M1(z) and Exts.M1(aa) to M1(ai). No oral evidence was adduced from the side of the workman. He had produced one document and the same was marked as Ext.W1. After closing the evidence the arguments for both sides were heard.

10. The points for determination are:

- (i) Whether the management has succeeded in proving all or any of the charges levelled against the workman?
- (ii) Whether the punishment imposed on the workman calls for any interference by this Tribunal?
- (iii) Whether the action of the management in removing the workman from the service of the bank was proper and justified?
- (iv) Whether he is entitled to any relief?

11. Point No.(i):- The charges numbered as 1 to 7, 9 and 10 in the chargesheet are based on the allegations serially numbered as 1 to 7 in it. The enquiry officer found that most of the charges are proved based on the admission of the allegations by the workman in the enquiry. The findings on the remaining charges were entered into after considering the evidence in the enquiry. As the enquiry was found to be invalid by this tribunal as per Preliminary Order dated 24.11.2011 it is necessary to have a detailed consideration of the evidence adduced before this tribunal to prove the charges. The charges are based on allegations 1 to 7 in the chargesheet. First of all it is to be considered whether the management has succeeded in proving those allegations.

12. The first allegation is relating to the issuance of 15 cheques from the Staff Over Draft (SOD) account of the workman with Fort Branch, Trivandrum. After closing the account he was asked to surrender the unused cheque leaves and to furnish the details of the cheques already issued by him. Those 15 cheques are from the SOD account of the workman is proved through the production of Ext.M1(ag). The issuance of the cheques and the dishonor of those cheques for the reason "account closed" is not disputed by the workman. In order to prove that the cheques were dishonoured after closing the account Ext.M1(af) was produced by the management. It will go to show that all those cheques were dishonoured after closing the account. He was asked to surrender the unused cheque leaves in his overdraft account and also to submit details of all the cheques issued and not presented for payment as per letter dated 04.05.2005 marked as Ext.M1(ah). He had given reply to it on 11.08.2005 marked as Ext.M1(ai) stating that he has no unused cheque leaves in his possession and without giving details as to the cheques already issued by him.

13. In the chargesheet marked as Ext.M1(aa) it is specifically stated that those cheques were issued by him after closing the account and hence the same were dishonoured for the reason "account closed". In his reply to the chargesheet dated 21.08.2006 marked as Ext.M1(ab) his explanation is that those cheques are from the 36 and 28 cheques issued for payment of monthly

instalments towards the payment of the two loans availed from HDFC and CITI finance and that the same were happened to be dishonoured since those were presented after closing his SOD account with the Fort Branch. In para 6 of the claim statement it is stated that those cheques were issued by him favouring either HDFC, HSBC Bank, SBI being credit card/personal loan repayments in Fort Branch and were dishonoured for the reason 'account closed' as those were presented after closing the account with the Fort Branch pursuant to his transfer to Thodupuzha branch. There is not even an iota of evidence in this case to prove that those cheques were issued by him for the repayment of loans prior to the closing of the account as alleged by him. Even if those cheques were issued before closing the account then also it was his bounden duty to state it in Ext.M1(ai) reply to M1(ah) letter asking him to give the details of the cheques already issued by him. Since all those cheques are seen dishonoured after closing the SOD account in the Fort branch and those cheques are bearing dates subsequent to the closing of the account it cannot easily be found that those cheques were issued prior to the closing of the account especially in the absence of any evidence to prove the same. His failure to furnish the details of the cheques already issued by him in Ext.M1(ai) cannot be said to be without any malafide intention. If the cheques were already issued by him before the closing of the account with the Fort branch he could have informed it to the concerned financial institutions. The dishonor of the cheques for the reason 'account closed' can be treated as an act prejudicial to the interest of the bank. Hence it can be held that the first allegation is duly proved by the management bank.

14. The second allegation in the chargesheet is with regard to the complaints made by Smt Radhamma and Shri P A Ashraff, copies of which were respectively marked as Exts.M1(a) and M1(b). Ext.M1(a) was received in the bank on 06.12.2005 about the non-payment of an amount of ₹ 25,000/- received by way of loan by the workman from Smt Radhamma. M1(b) is the letter dated 25.04.2006 and it is about the non-payment of ₹ 23,000/- availed by him by way of loan from Shri P A Ashraff. In Ext.M1(ab), his explanation is that he had borrowed ₹ 5,000/- and ₹ 3,000/- by way of loan from Smt Radhamma and that he had repaid ₹ 3,000/- and for the remaining ₹ 5,000/- he had issued a cheque. As he was unable to pay monthly interest for about six months, she tried to contact him at Thodupuzha branch over telephone. In the case of Shri Ashraff, he was only a guarantor for the loan of ₹ 23,000/- availed by his friend. Since his friend had absconded Mr.Ashraf came to the branch to get the interest. It is because of the threat of the Manager of the Thodupuzha branch Shri N V Ouseph they had made written complaints and Smt Radhamma claimed ₹ 25,000/- as per his instruction. There is no evidence in this case to

satisfy that the amount borrowed from Smt Radhamma was stated to be ₹ 25,000/- as per the instruction of the then Manager Shri N V Ouseph. He had denied it during his cross examination when he was examined as MW2.

15. In para 7 of the claim statement it is expressly admitted that he had borrowed a total amount of ₹ 48,000/- from Smt K Radhamma and Shri P A Ashraf. It is stated that ₹ 45,500/- was repaid and the balance was only ₹ 2,500/- and the same was also subsequently paid by him. Explanation in Ext.M1(ab) is totally inconsistent with the allegation in the claim statement. So it can very well be held that he had borrowed a total amount of ₹ 48,000/- from Smt Radhamma and Shri P A Ashraff and his explanation with regard to the same in Ext. M1(ab) is a cooked up one. Such complaints from borrowers will tarnish the image of the bank. Hence management has succeeded in proving the second allegation as to the complaints of Smt Radhamma and Shri Ashraff.

16. Whether it was excessive borrowing is a matter to be decided by the management bank as the management is having the discretion to decide the question as to excessive borrowal by an employee. In Ext.M1(ae) reply to the notice issued by the disciplinary authority proposing penalty there is admission of borrowal of amounts from several persons and its subsequent discharge. It is clearly proved in this case that he had availed loans from several financial institutions and private parties.

17. Failure to submit his assets and liabilities by the workman pursuant to the letter dated 26.04.2006 marked as Ext.M1(c) is the third allegation levelled against him. In Ext.M1(ab) explanation it was submitted by him that he had furnished the statement of assets and liabilities and once again submitting the same. In the claim statement it is stated by him that it was submitted on 02.05.2006. No evidence was adduced by him to prove that it was submitted on that day. In this connection it is to be pointed out that the workman was on leave from 17.04.2006 and when he came to join duty on 26.04.2006 Ext.M1(c) was issued calling upon him to submit the statement of assets and liabilities and another letter marked as M1(w) advising him to undergo medical examination at District General Hospital, Thodupuzha without permitting him to rejoin duty. Thereafter he was not allowed to join duty till 26.06.2006. In Ext.M1(u), the copy of the letter dated 26.06.2006 addressed by the Branch Manager to the Assistant General Manager for getting instructions on the leave applications and medical certificate submitted by the workman, it is seen pointed out that the statement of assets and liabilities was not furnished by him till that date. As he was served the original of Ext.M1(c) on 26.04.2006 the statement was to be filed within four days after the receipt of the same. It is not seen that any request was made by him for extension of time for filing it. There is failure on his part to submit statement within the time

provided for it. There is also no evidence to prove that it was filed at any time before 26.06.2006. Hence it can be held that the workman had failed to furnish the statement of assets and liabilities as required by the management which amounts to a gross misconduct.

18. The fourth allegation is about the calls received in the Thodupuzha branch from different persons including those who made demands for repayment of the amounts due to them. In Ext.M1(ab) explanation nothing is stated about it by him except as to the call made by Smt Radhamma. In para 8 of the claim statement after admitting that several calls were received over phone while he was working in Thodupuzha branch it is contended that no evidence was adduced in the enquiry to prove that those calls were either from borrowers or their representatives. There is no reliable evidence in this case to prove that all those calls were with regard to the amounts borrowed or the loans availed by him. For the reason that there is no specific denial with regard to that allegation in the chargesheet in Ext.M1(ab) it is not sufficient enough to hold that the calls were from borrowers. Merely on the basis of phone calls without ascertaining the identity of the persons it is not possible to arrive at a just conclusion that such calls were actually made by persons from whom he had borrowed money. The allegation cannot be said to be proved with the available evidence in this case.

19. The fifth allegation in the chargesheet is as to unauthorized absence from 17.04.2006 to 24.06.2006 and about his absence on 08.11.2005, 9.11.2005, 18.11.2005, 5.12.2005 and 6.12.2005 and also with regard to the absence on loss of pay for 181 days upto 25.06.2006. The allegation as to unauthorized absence from 17.04.2006 to 24.04.2006 was due to illness and the same was substantiated by producing medical certificates. MW2 has also stated during his cross examination that leave was already granted for that period. Hence it cannot be held that he was unauthorisedly absenting himself from duties from 17.04.2006 to 24.04.2006. The absence on the dates specified in the chargesheet on loss of pay is proved through the production of Ext.M1(m). He was absent on those days and was on loss of pay. It is not disputed that he was on loss of pay for 181 days upto 25.06.2006. Hence it can be held that it is a case of unpunctual and irregular attendance. He was absenting himself without prior intimation and also without submitting leave application in time.

20. The sixth allegation is regarding the shouting by the workman against Ms. Smilu Babu on 30.01.2006 around 1:20 pm while she was in the banking hall and also against Mr. V Krishnankutty at about 11:40 am on 06.04.2006. There is absolutely no evidence in this case to prove the allegation as to shouting against Ms. Smilu Babu. Shouting against Mr. V Krishnankutty who was the then

cashier is admitted by the workman in Ext.M1(ab) explanation. But it is stated that Mr. Krishnankutty received cash before putting scroll number in the pay-in-slip and infuriated him when he was asked about it. In Ext.M1(ab) it is stated that he had shouted after the reply of Mr Krishnankutty. MW2, during his cross examination, has stated that there was exchange of words between the workman and Mr Krishnankutty and it was at that time the workman shouted and the same does not deserve any serious consideration. No action is seen to have been taken against Mr Krishnankutty about it. The nature of the shouting or the words used by the workman at the time of shouting are not stated or proved by the management. Hence it cannot be held that there was shouting by the workman which calls for any action against him.

21. The seventh allegation is as to the misappropriation of an amount of ₹ 800/- received by him from the customer Ms Sujathamol for remittance in her SB A/c No.3218 without accounting it after making entry in her pass book. In Ext.M1(ab) he has admitted the receipt of ₹ 800/- from her on 10.10.2005. His explanation is that since she was in a hurry to go entry was made in her pass book as per the request made by her and because of the heavy work on that day he failed to remit the amount. But later it was remitted in her account and thereby the issue was settled. Regarding the non-remittance of the amount Ms Sujathamol made Ext.M1(d) complaint on 22.06.2006 after getting knowledge about the non-remittance when she came to withdraw the amount from her SB account on that day. The receipt of the amount is admitted by the workman in the claim statement. Ext.M1(e), the photocopy of the relevant pages of her passbook, would go to show that entry was made in her passbook in respect of that amount on 10.10.2005. Ext.M1(f) is the copy of statement of accounts and the same will go to show that no entry was made with respect to receipt of that amount on 10.10.2005. Workman remitted an amount of ₹ 800/- on 01.07.2006 and the same is evidenced by Ext.M1(g), the copy of the letter addressed by him to the branch manager. Ext.M1(k), the copy of the statement of accounts for the period from 01.09.2005 to 06.07.2006, is produced to prove the remittance of ₹ 800/- on 01.07.2006 and ₹ 21/- on 04.07.2006 in the account of Ms Sujathamol.

22. Pointing out the discrepancy in the name in the documents as Sujithamol it was argued by the learned counsel for the workman that the same cannot be relied on to prove the allegation. In the chargesheet the account number is shown as 3218. In those documents also the SB account number is given as 3218. Merely for the reason that there is a typing error in the name given in the chargesheet it cannot be held that those documents cannot be relied on to prove that allegation. There is the express admission in Ext.M1(ab) and in the claim

statement as to the receipt of the amount of ₹ 800/- from the customer and keeping it without remitting until the receipt of the complaint from that customer about the non-remittance.

23. Exts.M1(h), M1(i) and M1(j) would go to show that the workman remitted an amount of ₹ 800/- and ₹ 21/- as interest in the account of Ms. Sujathamol on 01.07.2006 and 04.07.2006 respectively. The explanation submitted by the workman that the entry was made in the passbook after the receipt of the amount because Ms. Sujathamol was in a hurry and made request to make entry is not supported by any evidence in this case. It cannot also be accepted as a reasonable explanation for the non-remittance of the amount received by way of cash from a customer came to remit the amount in the bank. If it was because of the cordial relationship or close acquaintance with the customer there is the least chance of making a complaint after getting knowledge of the non-remittance. But it was illegal retention of the amount entrusted with him by the customer amounting to misappropriation.

24. In view of the aspects discussed above it can be held that the management has succeeded in proving allegation Nos.1 to 3, 7 and second limb of allegation No.5 in the chargesheet. Based on the above findings as to the allegations in the chargesheet charge Nos.1 to 3, 5 to 7 and 9 & 10 can be held to be proved as against the workman.

25. Point No.(ii):-Disciplinary Authority imposed penalty of “removal from bank’s service with superannuation benefits, i.e., pension/or PF gratuity as would be due otherwise under the Rules and Regulations prevailing at the relevant time” for the charges 1 and 3 in the chargesheet and warning for the other charges found to have been proved by the enquiry officer. It was confirmed by the Appellate Authority with the change of wordings as to the penalty for charges 1 and 3 as “removal from the service with superannuation benefits i.e., pension and/or Provident Fund gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment”. Taking into consideration of the embezzlement of money of a customer, the financial indiscipline the previous instance of imposition of penalty as well as the other facts and circumstances it cannot be said that the punishment imposed on him is shockingly disproportionate to the proved misconducts.

26. In the decision reported in State Bank of India and Another Vs. Bela Bagchi and Others (2005) 7 SCC 435 it was held by the Apex Court that the charge with regard to receipt of money from an account holder for depositing in his saving bank account and making fraudulent or fictitious credit entry in the passbook by the employee of the bank is serious in nature and the contention that no

loss was caused to the bank is no defence. It was also held:

“A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. Even acting beyond one’s authority is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of loss is also without substance”.

27. There was a futile attempt on the part of the workman to prove that he was earlier imposed with penalty for the very same misconducts by producing Ext.W1. But on a perusal of Ext.W1 it can be seen that it does not relate to the alleged misconducts in this case. It can also be seen that he was imposed with penalty of bringing down to lower stage in the scale of pay by two stages in terms of clause 6(e) of the Memorandum of Settlement dated 10.04.2002 on disciplinary action procedure for similar misconducts. It is also to be borne in mind that he was imposed with such a penalty for the charge levelled against him as per order dated 15.02.2006. It cannot be said that the imposition of penalty for charge Nos.1 & 3 in the chargesheet in this case is too severe to have any interference by this Tribunal. Hence it is held that the penalties imposed on him for the various misconducts do not call for any interference by this Tribunal.

28. Point No.(iii):-As it is already found that the penalty imposed on the workman is not arbitrary or illegal it can be held that the action of the management in removing the workman from the service of the bank is proper and justified.

29. Point No.(iv):-In the result an award is passed holding that the action of the management of removing the workman from service is legal and justified. Hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witnesses for the workman - NIL

Witnesses for the management

MW1 11.08.2011 Shri M. C. Josekutty

MW2 01.11.2012 Shri N. V. Ouseph

MW3	15.04.2013	Shri Baven C Tharaken	M1(k)	- Photocopy of statement of account for the period from 01.09.2005 to 06.07.2006
MW4	10.06.2013	Shri Sriraman K A	M1(l)	- Photocopy of letter No. BR: STF:13/283 dated 27.04.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
MW5	31.07.2013	Shri K R Sivaramakrishna Iyer		
Exhibits for the workman				
W1	-	True copy of Order No. RO:KER: HRM:26/318 dated 15.02.2006 issued by the Assistant General Manager (Kerala Region) & Disciplinary Authority, Bank of Baroda	M1(m)	- Photocopy of Register of Employment for the period from 06.11.2005 to 10.12.2005
Exhibits for the Management :				
M1	-	Enquiry File	M1(n)	- Copy of letter No.BR:STF:13/278 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(a)	-	Photocopy of letter dated Nil addressed to the Manager, Bank of Baroda, Thodupuzha branch by Smt. K Radhamma	M1(o)	- Copy of letter No.BR:STF:13/280 dated 26.04.2006 addressed to the Superintendent, Government General Hospital, Thodupuzha by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(b)	-	Photocopy of letter dated 25.04.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by Shri P A Ashraff		
M1(c)	-	Photocopy of letter No.BR:STF 13/281 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch	M1(p)	- Copy of letter No.BR:STF:13/271 dated 11.05.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(d)	-	Photocopy of letter dated 22.06.2006 addressed to Bank of Baroda, Thodupuzha branch by Smt. Sujithamol S	M1(q)	- Copy of letter dated 26.06.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by the workman
M1(e)	-	Photocopy of relevant pages of Savings Bank Pass Book of Smt. Sujithamol S	M1(r)	- Copy of Medical Certificate dated 24.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(f)	-	Photocopy of statement of account for the period from 01.09.2005 to 22.06.2006	M1(s)	- Copy of the Fitness Certificate dated 26.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(g)	-	Photocopy of letter dated 01.07.2006 addressed to the Branch Manager, Bank of Baroda, Thodupuzha branch by the workman	M1(t)	- Copy of the Certificate dated 26.06.2006 issued by Dr. N Shunmukom, Chelsea Hospital, Karamana, Thiruvananthapuram
M1(h)	-	Photocopy of letter dated 06.07.2006 addressed to Smt Sujithamol S by the Branch Manager, Bank of Baroda, Thodupuzha branch	M1(u)	- Copy of letter No.BR:STF:14/19 dated 26.06.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch
M1(i)	-	Photocopy of letter No. TDPA: STF:14/33 dated 07.07.2006 addressed to the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam by the Branch Manager, Bank of Baroda, Thodupuzha branch	M1(v)	- Copy of the Medical Certificate dated 16.06.2006 issued by the Medical Officer, General Hospital, Thiruvananthapuram
M1(j)	-	Photocopy of letter No.RO:KER: HRM:26/1551 dated 04.07.2006 addressed to Smt. Sujithamol S by the Assistant General Manager, Bank of Baroda, Regional Office, Ernakulam	M1(w)	- Copy of letter No.BR:STF:13/278 dated 26.04.2006 addressed to the workman by the Branch Manager, Bank of Baroda, Thodupuzha branch

- M1(x) - Photocopy of Register of Leave particulars for the period from 01.01.2006 to 31.03.2006
- M1(y) - Letter dated 11.07.2006 addressed to the Branch Manager Bank of Baroda, Thodupuzha branch by the workman
- M1(z) - Letter dated 11.05.2006 addressed to the Manager, Bank of Baroda, Thodupuzha branch by the workman
- M1(aa) - Copy of Chargesheet dated 10.08.2006 issued to the workman by the Assistant General Manager(Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ab) - Copy of letter dated 21.08.2006 addressed to the Branch Manager, Bank of Baroda, Thodupuzha branch by the workman
- M1(ac) - Copy of notice dated 23.04.2007 issued by the Deputy General Manager (Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ad) - Copy of Order dated 10.05.2007 of the Deputy General Manager(Kerala Region) & Disciplinary Authority, Bank of Baroda
- M1(ae) - Submission of the workman dated 30.04.2007 to the Disciplinary Authority & the Deputy General Manager, Bank of Baroda, Regional Office(Kerala), Ernakulam
- M1(af) - Copy of Cheque Returned Outward Register for the period from 18.10.2005 to 04.09.2006
- M1(ag) - Copy of Cheque Book Register for the period from 31.05.2004 to 04.11.2004
- M1(ah) - Copy of letter No.FORT/STF/2005/41 dated 04.05.2005 addressed to the workman by the Sr.Branch Manager, Bank of Baroda, Fort Branch, Thiruvananthapuram
- M1(ai) - Copy of letter dated 11.08.2005 addressed to the Senior Manager, Bank of Baroda, Fort, Trivandrum by the workman.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अरूनाकुलम के पंचाट (संदर्भ संख्या 22/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/4/2011-आईआर (बी.-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 22/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of the Indian Bank and their workman, which was received by the Central Government on 05/11/2014.

[No.L-12012/4/2011-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present:

Shri D. Sreevallabhan, B.Sc., LLB, Presiding Officer

(Monday the 29th day of September, 2014/7th Asvina, 1936)

ID 22/2011

Workman : Shri M K Unnikrishnan Kizhalethu
House West Hill PO Edakkad
Kozhikode – 5 Kerala

By M/s.. H.B.Shenoy Associates

Management : The Chief Manager (HRM) Indian Bank,
Head Office H R Department 66 Rajaji
Salai CHENNAI - 600001

By Adv. Shri S.Easwaran

This case coming up for final hearing on 22.09.2014 and this Tribunal-cum-Labour Court on 29.09.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide its Order No. L-12012/4/2011-IR(B-II) dated 13.06.2011 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

"Whether the action of the management of Indian Bank with Headquarters at Chennai in superannuating Shri M. K. Unnikrishnan, Tiny Deposit Collector of Kozhikode Branch w.e.f.15.07.2007 is justified and legal? What relief the workman is entitled to?"

3. The workman joined the services of the management bank as tiny deposit collector at its Kozhikode branch on 15.11.1980. He was terminated from service on 15.07.2007 for the reason that he had attained the age of superannuation. The legality and justifiability of the termination is challenged by the workman by raising this industrial dispute.

4. After appearance before this Tribunal workman filed claim statement by making the allegations that he was in continuous service of the management bank from 15.11.1980 and was orally terminated from service on 15.07.2007 by the management bank, on the premise of having attained the age of superannuation unilaterally fixed by the bank, without complying with the requirements under section 25F of the Industrial Disputes Act, 1947. There is no retirement age or age of superannuation for the workman as per the conditions of service and the contract of employment governing his service in the management bank. Hence the termination amounts to retrenchment and it was effected without notice or payment of wages in lieu of notice and without paying compensation as provided under Section 25F of the ID Act. It is illegal and unjust and hence the workman is entitled to the benefits under section 25F of the ID Act.

5. In the written statement management, after denying the allegations in the claim statement, would contend that after his engagement as tiny deposit collector on 15.11.1980 his service was discontinued from 31.03.1982 and he was again engaged from 21.07.1993 after the reintroduction of the scheme w.e.f. 01.04.1993. One of the primary conditions for reintroduction of the said scheme was that those agents who were working at the time of discontinuance of the scheme will be engaged only if they have not attained the age of 60 years as on 01.04.1993. The service conditions of the tiny deposit collectors is as per the terms of the award dated 22.12.1988 in ID 14/1980 passed by the Industrial Tribunal, Hyderabad. They were found to be workman coming within the purview of the definition of section 2(s) of the Industrial Disputes Act. In WP No.9783/1987 filed before the Hon'ble High Court of Andhra Pradesh the finding of the tribunal was upheld but it was held that they cannot claim to be regular employees of the bank and the same was upheld by the Apex Court by its judgment dated 13.02.2001. The tiny deposit collectors are only eligible for full back wages, incentive commission, conveyance allowance and gratuity as per the decision in that case. The service conditions are as per the award and related to the Bipartite Settlement of award staff. As per the Bipartite Settlement the age of retirement is 60 years if his efficiency is found to be non-impaired by the employer when he reaches the age of 57 years. It is not correct to say that the workman was terminated from service without issuance of notice or

payment of wages. By letter dated 13.07.2007 he was informed that he would be disengaged from service on 15.07.2007 on attaining the age of superannuation and hence not to collect tiny deposits. As per the judgment of the Hon'ble Supreme Court the tiny deposit collectors cannot be equated with the regular employees with regard to the service conditions. As per the terms of the Bipartite Settlement, the scheme introduced by the bank for engagement of tiny deposit collectors and the letter of undertaking given by the workman he is not entitled to make any claim under section 25F of the Industrial Disputes Act.

6. Workman filed replication denying the contentions in the written statement and reaffirming the allegations in the claim statement.

7. For the purpose of deciding this case no evidence, either oral or documentary, was adduced by the workman. From the side of the management one witness was examined as MW1 and Exts.M1 to M5 were got marked.

8. The points for determination are:-

(i) Whether the termination of the service of the workman is to be in accordance with Section 25F of the Industrial Disputes Act?

(ii) Whether the action of the management in superannuating the workman w.e.f. 15.07.2007 is justified?

(iii) What relief, if any, he is entitled to?

9. **Point No. (i):**—It is not in dispute that the workman was employed as a tiny deposit collector by the management bank on 15.11.1980. In the claim statement it is alleged that he was in continuous service thereafter until his termination on 15.07.2007. But it is contended in the written statement that his service was discontinued from 31.03.1982 and he was re-engaged from 21.07.1993 after the reintroduction of the Tiny Deposit Scheme w.e.f. 01.04.1993. It is proved that he was disengaged and subsequently re-engaged with the re-introduction of the scheme through the testimony of MW1 as well as Ext.M3 letter of undertaking dated 09.06.1993 given by the workman for his re-engagement.

10. Admittedly he was terminated from service on 15.11.2007. Even though it is alleged that his service was terminated orally the same cannot be accepted as true in view of Ext.M4 issued from the management bank to the workman as to his disengagement on 15.07.2007.

11. According to the workman his service was terminated on the premise of attaining the age of superannuation unilaterally fixed by the management and it amounts to retrenchment which necessitates the

compliance of the requirements under Section 25F of the Industrial Disputes Act, 1947. On the other hand it is contended by the management bank that the age of superannuation of a workman is 60 years as per the terms of the Bipartite Settlement dated 17.09.1984 and it is also evident from the instructions as to the reintroduction of tiny deposit scheme dated 30.03.1993, copy of the relevant portion of which is marked as Ext.M2.

12. Clause XIII of the said Bipartite Settlement contains provisions as to the age of retirement and the same reads as follows:-

“XIII. Age of Retirement

In reiteration of Chapter XVIII of the First Bipartite Settlement dated 19th October, 1966 and similar provisions in the settlements of other member banks who are parties to this Settlement, it is stated as under:

(i) For Banks other than State Bank of India:

“After a workman has reached the age of 57 years, he may be retired after giving him two month’s notice in writing in case his efficiency is found by the employer to have been impaired. Subject to this rule and also subject to any rule under an existing pension fund, a workman shall not be compelled to retire before he is 60 years old nor will it be necessary to give a workman a letter extending his services till he is sixty years old.”

(ii) For State Bank of India:

“A workman shall normally retire on reaching the age of 58 years. The Bank will, however, grant to a workman who continues to be physically fit and efficient an extension of service upto 60 years of age, but service beyond 58 years of age will not be counted for any purpose with or in relation to pension.”

13. Clause XIII(i) of that Bipartite Settlement is applicable to the management bank. As per that provision the retirement age of the workman is 60 years and he cannot continue in service thereafter. As per Clause XIII of the Bipartite Settlement no workman can claim to be in service after the age of 60 years.

14. Relying on the judgment of the Apex Court in *Indian Banks Association Vs. Workmen of Syndicate Bank & Ors.*, copy of which is marked as Ext.M5, it was submitted by the learned counsel for the workman that though the tiny deposit collectors were found to be workmen it was held that they cannot be equated with

regular employees with the same service conditions. It was further submitted by him that since it was held that the service conditions of the regular bank employees are not applicable to the tiny deposit collectors the provision contained in that Bipartite Settlement as to the retirement age cannot be made applicable to them. The matter came up for consideration in that case is whether the tiny deposit collectors are workmen coming within the purview of the definition under section 2(s) of the Industrial Disputes Act and they are entitled to be absorbed in regular service with the pay, allowances and other benefits of the regular employees. The question as to the age of retirement or superannuation of the tiny deposit collectors was not considered while dealing with that case. The said Bipartite Settlement or any of its provisions was not at all considered while dealing with that matter. Clause XIII of the said Bipartite Settlement expressly provides that the age of retirement of the workman cannot be above 60 years.

15. At the time of re-introduction of the scheme only those who had not attained the age of 60 years as on 01.04.1993 was only re-engaged and it is evident from Ext.M2. The conditions of service in Ext.M2 are admitted to by the workman in Ext.M3. It is expressly clear from Ext.M2 that the tiny deposit collectors can continue to work only upto the age of 60 years. Workman has no case with regard to the age of retirement. Since the tiny deposit collectors are workmen coming within the definition of Section 2(s) of the Industrial Disputes Act the retirement age is to be in accordance with the provision contained in the said Bipartite Settlement. It is also apparently clear from Ext.M2 that there cannot be continuance of service as tiny deposit collectors after the age of 60 years. It is a paradox if those who were re-engaged will be allowed to continue to be in service after 60 years. The workman was terminated from service on completion of the age of 60 years by issuing the original of Ext. M4. In the case of superannuation it is not necessary to have compliance with the requirements under Section 25F of the Industrial Disputes Act. It cannot in any way be said that it is retrenchment and hence it is necessary to comply with the requirements under Section 25F of the ID Act.

16. **Point No.(ii):**—There is nothing illegal in superannuating the workman w.e.f.15.07.2007 on completion of the age of 60 years. Hence the action of the management can be held to be legal and justified.

17. **Point No.(iii):**—In the result an award is passed holding that the action of the management in superannuating the workman w.e.f.15.07.2007 is justified and legal. Hence he is not entitled to any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 29th day of September, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the workman : NIL

Witness for the management :

MW1 23.04.2014 Shri K. N. Murugappan

Exhibits for the workman : NIL

Exhibits for the management :

- M1 - Copy of relevant portion of the Fourth Bipartite Settlement dated 17.09.1984.
- M2 - Copy of instructions as to reintroduction of Tiny Deposit Scheme in Indian Bank dated 30.03.1993.
- M3 - Copy of letter of irrevocable undertaking dated 09.06.1993 given by the workman to the Manager, Indian Bank, Kozhikode.
- M4 - Copy of letter dated 13.07.2007 issued by the Senior Manager, Indian Bank, Kozhikode to the workman.
- M5 - Copy of Judgment dated 13.02.2001 in Civil Appeal No.3355 of 1998 of the Hon'ble Supreme Court of India.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्रा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, मुंबई के पंचाट (संदर्भ संख्या 43/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/92/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 43/2013) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/92/2012-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

Present:

Justice S. P. MEHROTRA, Presiding Officer

Reference No. CGIT-1/43 of 2013

Parties: Employers in relation to the management of Bank of Maharashtra

And

Their workman

Appearances:

For the first party/ : Mr. Mr. M. B. Anchan, Adv.
Management

For the second party : None present
workman

State : Maharashtra

Mumbai, dated the 13th day of October, 2014

AWARD

1. The present reference has been made by the Central Government by its order dated 27.6.2013 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference as per the Schedule to the said order are as under:

“Whether the action of the management of Bank of Maharashtra, Pune Rural Regional Office, Pune by not providing the employment to Shri S. W. Satale as PTS inspite of working w.e.f. 25.5.1992 is legal and justified? What relief the workman Shri Satale is entitled to?”

2. By the order dated 23.12.2013 passed by the Tribunal, notices were directed to be issued to the parties fixing 14.2.2014. Notices were accordingly issued to the parties by Registered Post AD.

3. On 14.2.2014, Mr. M. B. Anchan, Advocate was present on behalf of the first party/Management. It was noted in the order dated 14.2.2014 that notice issued to the second party/Workman by Registered Post AD had been served, and the Acknowledgement Card had been received back. However, none was present on behalf of the second party/Workman on 14.2.2014. In the circumstances, the case was adjourned to 2.4.2014 for filing Statement of Claim.

4. On 2.4.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In

the circumstances, by the order dated 2.4.2014, the case was adjourned to 4.6.2014 for filing Statement of Claim.

5. On 4.6.2014, none was present on behalf of the second party/Workman. On mention being made on behalf of Mr. M. B. Anchan, learned counsel for the first party/Management, the case was adjourned on the said date, and 30.6.2014 was fixed.

6. On 30.6.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 30.6.2014, the case was adjourned to 2.9.2014 for filing Statement of Claim on behalf of the second party/Workman.

7. On 2.9.2014, Mr. M. B. Anchan, learned counsel for the first party/Management was present. However, none was present on behalf of the second party/Workman. In the circumstances, by the order dated 2.9.2014, the case was adjourned to 13.10.2014 (i.e. today) for filing Statement of Claim on behalf of the second party/Workman.

8. Pursuant to the order dated 2.9.2014, the case has been taken up today.

9. Mr. M. B. Anchan, learned counsel for the first party/Management is present. He has brought on record formal Authority in his favour issued by the first party/Management. However, today again, none is present for the second party/Workman. No Statement of Claim has been filed on behalf of the second party/Workman.

10. From the above narration of facts, it is evident that despite service of notice having been made on the second party/Workman, none has appeared on behalf of the second party/Workman on any of the dates fixed in the case. No Statement of Claim has been filed on behalf of the second party/Workman.

11. In view of the above, it is evident that there is no pleading or evidence on behalf of the second party/Workman in support of his claim. No relief can therefore, be granted to the second party/Workman in the present Reference.

12. The Reference is consequently answered by stating that no relief can be granted to the second party/Workman.

Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 44/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/18/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 44/2011) of the Central Government Industrial Tribunal-Cum-Labour Court-2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/18/2011-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/44 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF
CENTRAL BANK OF INDIA

The Assistant General Manager
Central Bank of India,
Mumbai Metropolitan Zonal Office
346, Standard Building
Dr. D.N. Road, Fort
Mumbai-400 023.

AND

THEIR WORKMEN.

The General Secretary
Central Bank Karmachari Sena
Central Bank of India
Mumbai Main Office, 2nd floor
M.G.Road, Fort
Mumbai 400 023.

APPEARANCES:

FOR THE EMPLOYER : Mr. L. L. D'Souza,
Representative

FOR THE WORKMEN : No appearance

Mumbai, dated the 26th September, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/18/2011/IR (B-II), dated 18.08.2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the Assistant General Manager, Central Bank of India, Mumbai in imposing the punishment of bringing down to one stage lower for one year in the time scale of pay upon Shri Vijay S. Amin, Peon (Sub-Staff) vide order No. SMRO/DAD 2009-10/1949 dated 21/10/2009 is legal, just and proper? What relief the workman concerned is entitled to?”

2. After receipt of the reference from Ministry of Labour & Employment, notices were sent to both the parties. Concerned workman appeared before this Tribunal on 13/12/2011 and requested for adjournment. Thereafter fresh notices were issued to second party vide Ex-5, 7, 10, 12, & 13. Acknowledgement to that effect is at Ex-11 & 14. The second party union has neither approached this Tribunal nor filed statement of claim. Since there is no statement of claim on record, therefore, this reference cannot be decided on merits and the same deserves to be rejected for want of prosecution. Thus I proceed to pass the following order:

ORDER

Reference stands rejected for want of prosecution.

Date: 26.09.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2956.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ संख्या 45/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/19/2011-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 45/2011) of the Central Government Industrial Tribunal-Cum-Labour Court-2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of the Central

Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12011/19/2011-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2,
MUMBAI**

PRESENT:

K. B. KATAKE, Presiding Officer

REFERENCE NO.CGIT-2/45 of 2011

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF

CENTRAL BANK OF INDIA

The Assistant General Manager
Central Bank of India,
Mumbai Metropolitan Zonal Office
346, Standard Building
Dr. D. N. Road, Fort
Mumbai-400 023.

AND

THEIR WORKMEN.

The General Secretary
Central Bank Karmachari Sena
Central Bank of India
Mumbai Main Office,
2nd floor M. G. Road, Fort
Mumbai 400 023.

APPEARANCES:

FOR THE EMPLOYER : Mr. L. L. D'Souza,
Representative.

FOR THE WORKMEN : No appearance.

Mumbai, dated the 26th September, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/19/2011-IR (B-II), dated 18.08.2011 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the Assistant General Manager, Central Bank of India, Mumbai in imposing the punishment of bringing down to one stage lower for one year in the time scale of pay upon Shri Dadu H. Malusare, peon (Sub-Staff) vide order No. SMRO/DAD 2009-10/1948 dated 21/10/2009 is legal, just

and proper? What relief the workman concerned is entitled to?"

2. After receipt of the reference from Ministry of Labour & Employment, notices were sent to both the parties. Concerned workman appeared before this Tribunal on 13/12/2011 and requested for adjournment. Thereafter fresh notices were issued to second party vide Ex-7, 10, 12 & 13. Acknowledgement to that effect is at Ex-11 & 14. The second party union has neither approached this Tribunal nor filed statement of claim. Since there is no statement of claim on record, therefore, this reference cannot be decided on merits and the same deserves to be rejected for want of prosecution. Thus, I proceed to pass the following order:

ORDER

Reference stands rejected for want of prosecution.

Date: 26.09.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2957.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 37/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/94/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of the Union Bank of India and their workmen, received by the Central Government on 05/11/2014

[No. L-12012/94/2012-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Tuesday, the 12th August, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 37/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Union Bank of India and their workman)

BETWEEN:

Sri M. K. Narayanan : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent
(Personnel)

Union Bank of India,
Central Office
Union Bank Bhawan,
239, Vidhan Bhawan Marg,
Mumbai-400021

Appearance:

For the 1st Party/ : M/S.. Balan Haridas, Advocates
Petitioner

For the 2nd Party/ : M/S.. T.S. Gopalan & Co.,
Management Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/94/2012-IR (B-II) dated 01.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Union Bank of India, Coimbatore regarding termination of services of the petitioner, Sri M. K. Narayanan is justified or not? What relief the workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 37/2013 and issued notices to both sides. Both parties have entered appearance through their counsel and filed their claim and counter statement respectively. The petitioner has filed Rejoinder after the Counter Statement was filed.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner had joined service of the Respondent Bank in the year 1961. By the year 1995 he had rendered 34 years unblemished record of service. On 28.11.1995 the petitioner submitted a letter to voluntarily retire from service, owing to personal reasons. Petitioner has two sons, both of whom were having industries from the year 1985. The Sons had opened account with Gandhipuram

Branch of Respondent Bank and had availed cash credit loans. The petitioner had been the guarantor for those loans. The petitioner's Sons have borrowed money from private parties also, for their business. The industries run by the Sons of the petitioner came to be on loss and it was decided to close the factories and wind up the business. The petitioner had decided to sell his property and settle the dues of the bank and private lenders. However, the private lender wanted the money immediately and they threatened to take legal action against the petitioner. It was in such circumstances the petitioner submitted letter voluntarily retiring from service. After submitting the letter the petitioner migrated to Baroda alongwith his Sons. The petitioner did not inform this new address to the Bank as it would reach the private money lenders and they would start harassing the petitioner. The petitioner could not know what was happening to his application for voluntary retirement. In the year 2004, the petitioner contacted the Coimbatore Main Branch where he had worked last and claimed Provident Fund, Gratuity and Pension. He was paid only the contribution made by him to the Provident Fund. Employer contribution was not paid. Gratuity payable to him was adjusted towards the loan account of petitioner's Sons at Gandhipuram branch. Regarding Pension, the Respondent took the stand that the petitioner has been treated as abandoned the service. The petitioner had properly tendered letter to retire from service voluntarily. So treating the petitioner as a person who has abandoned service is grossly illegal. This amounts to termination of the petitioner from service without notice, without hearing and without any enquiry. In the circumstances, the petitioner has raised the dispute. The delay in raising the dispute is due to the reasons earlier stated. The case of the Respondent that the petitioner has been unauthorizedly absent is without any basis. The petitioner has already tendered letter for voluntarily resigning from service. The petitioner is entitled to terminal benefits on the basis of his voluntary retirement. An award may be passed holding that the action of the Management in treating the petitioner as voluntarily abandoned the service and terminating the service of the petitioner is grossly illegal and arbitrary and holding that the petitioner had validly tendered letter for voluntary retirement from service w.e.f. 28.11.1995 and direct the Respondent to pay all the terminal benefits, Gratuity, PF, Pension, Arrears of Pension, etc.

4. The Respondent has filed Counter Statement contending as follows:

The petitioner had joined the service of the Respondent in the year 1961 and was last working in Coimbatore Main Branch. His two Sons who had set up business and availed loans from the branches of the Respondent Bank in Coimbatore, the petitioner has stood guarantor for the loans. The petitioner had also availed

housing loan, clean loan, etc. He seems to have issued cheques without sufficient funds in the account. The petitioner absented himself from work from 21.11.1995 on the ground that he was ill and he applied for leave. After this, he made an application for voluntary retirement on 28.11.1995. By letter dated 29.12.1995 the Zonal Office at Chennai communicated to the Regional Office that his request for voluntary retirement could not be considered as he had loans outstanding with the bank. The decision of the Zonal Office was communicated to him only on 30.09.1996 since he remained absent without any communication. On 25.03.1996, a notice was issued to the petitioner pointing out his unauthorized absence and informing him that if he failed to report for duty within 30 days he will be treated as having left the service. Since the petitioner did not respond to the communication, he was treated as having left the service. Nothing was heard from the petitioner for a very long period. It was only on 03.06.2004 he sent a letter to the Respondent giving his address in Gujarat. Since the petitioner has abandoned his employment, he was not entitled to Pension in terms of Banks Pension Regulation Act. The dispute raised by the petitioner is bad on the grounds of delay, laches and inaction on his part. It is not a case of termination of employment of the petitioner by the Bank. It was cessation of employment brought about by the conduct of the petitioner in remaining absent without leave for more than 90 days. So he is not entitled to challenge the termination. The petitioner had passed the age of superannuation in the year 2003. The petitioner is interested to treat the cessation of the employment as termination so that he could make a claim for Pension. In any case, the petitioner who was not heard of more than 8 years is not entitled to advance the case that his removal from service in terms of the provisions of Bipartite Settlement is unjust. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the case in the Counter Statement and also reiterating his case in the Claim Statement.

6. The evidence in the case of consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W9 and Ext.M1 to Ext. M20.

7. The points for consideration are:

- (i) Whether the action of the management regarding termination of services of the petitioner is justified?
- (ii) What is the relief, if any to which the petitioner is entitled?

The Points

8. The petitioner had been working with the Respondent Bank from the year 1961. He had worked

with the Respondent until 21.11.1995 on which date he had applied for leave. Even before the expiry of the period for which he has applied for leave, on 28.11.1995, he sent a letter to the Respondent for voluntary retirement from service. Without waiting for the result of his application for voluntary retirement from service, the petitioner had stopped attending his duty at the Bank. Even as stated by the petitioner in his Claim Statement and by the Respondent in its Counter Statement also the petitioner had stood guarantor for the loan availed by his two Sons from different branches of the Respondent Bank at Coimbatore. According to the petitioner apart from bank loans, his Sons had raised private loans also. Since the industries of the Sons started to run on loss, the lenders began pressing for payment. The petitioner and his Sons seemed to have taken up residence at Baroda in Gujarat immediately after submitting letter for voluntary retirement from service by the petitioner.

9. The stand of the Respondent is that the request of the petitioner for voluntary retirement was not allowed since there were debts outstanding in the name of himself and his Sons. According to the respondent, since the petitioner absented himself from work unauthorizedly and since there was no response to the notice issued by the Bank the continuous absence of the petitioner was treated as abandonment of service. According to the respondent, the petitioner having abandoned the service, he was not entitled to pensionary benefits.

10. The initial question that is to be considered is whether there was abandonment of service actually by the petitioner. The counsel for the Respondent has referred to different decisions of the Apex Court to make out that there was actually abandonment of service on the part of the petitioner. Reference was made to the decision in *SYNDICATE BANK VS. GENERAL SECRETARY, SYNDICATE BANK STAFF ASSOCIATION* reported in (2000) 5 SCC 65, *PUNJAB AND SIND BANK AND OTHERS VS. SAKATTAR SINGH* reported in 2001 1 SCC 214, *VIVEK NAND SETHI VS. CHAIRMAN, J&K BANK LIMITED AND OTHERS* reported in (2005) 5 SCC 337 and also *REGIONAL MANAGER, BANK OF BARODA VS. ANITHA NANDRAJOG* reported in 2009 9 SCC 462. In the above decisions it was held that in the case of long unauthorized absence no domestic enquiry is required and the absence is to be treated as voluntary cessation of service.

11. If actually the petitioner was unauthorizedly absent from service for a long time it would be a case of abandonment of service, no doubt. However, the argument that is advanced by the counsel for the petitioner is that the absence on the part of the petitioner is not unauthorized absence he having submitted application for voluntary retirement from service and the same having

not been rejected it is to be treated as acceptance of his application for voluntary retirement. According to the counsel inspite of the above application the Respondent has treated the absence of the petitioner as abandonment from service and under this guise had terminated his service to deny pensioner benefits to him.

12. It is not disputed by the Respondent that a letter requesting for voluntary retirement has been submitted by the petitioner. In fact the document is produced by the Respondent and is marked as Ext.M3. At the stage of the argument, the counsel for the Respondent has advanced an argument that the application for Voluntary Retirement is not in proper form. However, on going through the documents produced by the Respondent it could be seen that throughout until the stage of argument there was never a case for the Respondent that the application for Voluntary Retirement was not entertained, the same not being in proper form. On the other hand, the stand of the respondent is that the request of the petitioner for Voluntary Retirement was rejected since dues were outstanding in his name as well as in the name of his Sons.

13. Even though, the Respondent has got a case that the application for Voluntary Retirement was rejected by the Zonal Office by letter dated 29.12.1995, even as admitted by the Respondent in its Counter Statement, the communication of rejection was not given to the petitioner until 30.09.1996 which according to the Respondent was due to absence of the petitioner from work. However this absence has not prevented the Respondent from later issuing a notice to the petitioner on 25.03.1996 stating that he was unauthorizedly absent and that he is to report for duty within 30 days. This notice marked as Ext.M7 is seen returned un-served since the petitioner has stopped residing in this address at Coimbatore and has already shifted to Baroda. Even as admitted by the petitioner he has not furnished his Baroda address to the Respondent. However nothing prevented the Respondent from making its stand safe by giving a communication of rejection of the application for Voluntary Retirement by sending it in the last known address of the petitioner.

14. Ex.M3 letter dated 28.11.1995 from the petitioner addressed to the Manager, Department of Personnel Affairs states that the petitioner is suffering from ill-health and therefore he is submitting his voluntary retirement from service with immediate effect under the Voluntary retirement Scheme on health grounds. The letter also requests to accept the request and to relieve him from service on receipt of the letter, at the earliest.

15. The Respondent has produced the Pension Regulations pertaining to the employees. Chapter-V referring to Pension gives two classes of pension, one on

superannuation and the other second on voluntary retirement. Clause-29.1 which refers to pension on voluntary retirement states that on or after the first day of November 1993, at any time after the employee has completed 20 years of qualifying service he may, by giving notice of not less than 3 months to the Appointing Authority, retire from service. Sub-Regulation-2 of Regulation-29 states that notice of voluntary retirement given shall require acceptance by the Appointing Authority. There is a proviso to this Sub-Regulation that where the Appointing Authority does not refuse to grant the permission for retirement before the expiry of the period specified in the notice, the retirement shall become effective from the date of expiry of the said period. Under Sub-Regulation-3, an employee referred to in Sub-Regulation-1 may make a request in writing to the Appointing Authority to accept notice of voluntary retirement of less than 3 months giving reasons. As per Clause-B of Sub-Regulation-3 the Appointing Authority may consider such request subject to the provisions of Sub-Regulation-2 and if it is satisfied that curtailment of the period of notice did not cause any administrative inconvenience the authority may relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before expiry of the notice of three months. Under Sub-Regulation-4 even restriction is placed on the employee on withdrawing his notice for voluntary retirement.

16. On a perusal of Ext.M3 it is clear that the request for voluntary retirement by the petitioner was one under Sub-Regulation-2 of Regulation-29 read with Sub-Regulation-3. He has stated in his letter that he is suffering from ill-health, that he is seeking voluntary retirement on health grounds and he may be relieved from service at the earliest. In spite of the fact that the petitioner wanted retirement with immediate effect, his request was not considered by the authorities immediately. It was not considered even before the period of three months which is the period of notice prescribed under Regulation-29(1). It was incumbent on the authorities to consider the request immediately and decide whether the petitioner is entitled to voluntary retirement before the expiry of the period of three months. The authorities did not take any decision on Sub-Regulation-2, though this states that the notice of voluntary retirement shall require acceptance by the Appointing Authority. In the absence of any decision by the authority and absence of communication regarding any decision, the proviso under Sub-Regulation-2 of Regulation-29 will necessarily come into play. As per this proviso, if the authority is not granting any permission for retirement before expiry of the period specified in the notice retirement shall become effective from the date of expiry of the period. So far as the petitioner was concerned his

request was to exempt him from any notice and grant his request for voluntary retirement with immediate effect.

17. It has been argued by the Counsel for the Respondent that three months notice has not been given by the petitioner while seeking voluntary retirement and for this reason also the application is bad. However, even this contention is not seen take by the Respondent in the Counter Statement. The documents produced on behalf of the Respondent does not state also that the petitioner's request could not have been entertained in the absence of any specification regarding the period of notice. So far as the petitioner is concerned he was asking for voluntary retirement with immediate effect on health grounds and so it was a request for exemption from giving any notice at all. Even assuming that the application is one under Regulation-29(1) and three months notice has not been specified the Respondent could have treated period of three months from the date of receipt of notice as the period of notice and could have taken a decision within this period. In the absence of any decision on the part of the Respondent within the said three months, necessarily the proviso to Sub-Regulation-2 should come into play and the petitioner must be deemed to have retired from service on expiry of the said period.

18. There is of course the fact that the petitioner did not attend his duty after he sent Ext.M3 to the Respondent. It is on the basis of this it has been argued by the Counsel for the Respondent that it is a case of abandonment of service. If the wording in Sub-Regulation-3 of the Pension Regulations is accepted it cannot be treated as abandonment of service at all. Even assuming that the petitioner was not expected to stop attending duty before he received a communication regarding acceptance of his request of retirement or until expiry of three months period of notice, the action of the petitioner need not be treated as abandonment of service. It was a case where the petitioner under very extra-ordinary circumstances had made a request for voluntary retirement with immediate effect and there was no reason for him to suppose that his request would be rejected. The only restriction in accepting a voluntary retirement application before the expiry of the three months notice was whether it will cause any administrative inconvenience. In other respects it is a must that the same should be accepted. This is clear from the fact that an employee is precluded from withdrawing his notice except with the specific approval of the authority.

19. The counsel for the Respondent has been referring to the decision in VIJAY S. SATHYE VS. INDIAN AIRLINES LTD AND OTHERS reported in 2014 3 LLN 40 where the request for voluntary retirement was rejected as the employee had not given three months notice as provided and had failed to attend duty immediately after

submitting the application. The Apex Court had considered the case as one of abandonment from service and had refused to accede to the request of the employee in question who was a Pilot for voluntary retirement. The above case can be distinguished from the present case. The Pilot who had sought retirement was informed in writing that he should continue in service till the time decision is taken on his application. Apart from this, as per the regulation that was applicable, acceptance of resignation was subject to approval of the competent authority. The Apex Court has held that it is a settled legal proposition that if a statute provides for approval of the higher authority, the order cannot be given effect to unless it is approved and the same remains inconsequential and unenforceable. The Pension Regulations of the Respondent stand on a different footing. As per Regulation-29(1) any person who has completed 20 years of qualifying service was entitled to voluntary retirement on his applying with three months notice. In the absence of rejection of the application within the prescribed time, it is to be deemed that the retirement has come into effect after the period of notice.

20. In this respect the decisions relied upon by the counsel for the petitioner are relevant. In the decision in *DINESH CHANDRA SANGMA VS. STATE OF ASSAM AND OTHERS* reported in 1978 1 LLJ 17, a District Judge had sought retirement on the basis of the concerned rule and the same was allowed. Later, the order was cancelled and the Judge was asked to join duty. As per Fundamental Rule-56C which was applicable to the case, a Government Servant may by giving notice of not less than 3 months in writing to the appropriate authority retire from service after he has obtained the age of 50 years or has completed 25 years of service whichever is earlier. The Apex Court held that there was no question of acceptance of request for voluntary retirement by the Government when the Government Servant had exercised his right under FR 56C. There was automatic retirement in the case. In the present case also the petitioner having exercised his option under Regulation-29(1) and the competent authority having failed to accept the same the proviso has come into effect and the petitioner is to be deemed to have retired voluntarily in view of the refusal.

21. In the decision in *SUNDARESHWARALU VS. CENTRAL BANK OF INDIA AND OTHERS* reported in CDJ 2003 MHC 1165, the Madras High Court has held that the application seeking voluntary retirement having not been rejected by the appropriate authority, on expiry of three months period, it is to be deemed that the petitioner has retired from service. The High Court had directed the Central Bank to settle the terminal benefits of the petitioner. The period of the absence of the petitioner was directed to be treated as leave with or without pay.

22. In the light of the above legal pronouncements also it could be seen that the petitioner is to be deemed to have retired from service at least on expiry of three months after receipt of the request by the Respondent.

23. It has been argued by the Counsel for the Petitioner that even assuming that it was a case of unauthorized absence from duty on the part of the petitioner, the petitioner could not have been visited with a punishment more grave than compulsory retirement. It has been pointed out by the counsel that it was under very trying circumstances that the petitioner had to absent himself from duty. He had pointed out that the petitioner had stood guarantor for the loans of his Sons and his Sons were facing loss in their industry and the Respondent Bank as well as Private Lenders were running after him and his Sons for recovering the debt and he had taken the extreme step of leaving his locality. The counsel has referred to a decision of the Apex Court in *SHANKARDAS VS. UNION OF INDIA* reported in AIR 1985 SC 184 where it was held that family circumstances can be taken into account in deciding the measure of penalty to be imposed.

24. By the time the petitioner had given his request for voluntary retirement he had completed 34 years of service. He had claimed in the Claim Statement that it was a service of unblemished record. The Respondent has no case that the petitioner was guilty of any misconduct at any point of his career in the Bank. There is absolutely no complaint against the petitioner regarding his previous conduct. The only reason the Bank has given to reject the application for voluntary retirement (which according to it was communicated after expiry of the three months period) is that the petitioner was having several loans and he had made several borrowals outside the bank also. So far as the loan granted to the petitioner's Sons with him as the guarantor was concerned there was no necessity for the Bank to worry at all. It was not with the salary of the petitioner as Security that a loan was given to the Sons. On the other hand, the loan was well secured by the property of the petitioner. Even on the basis of assessment made by the bank as seen from Ext.M4 the loan arrears was ₹ 8.00 lakhs only while the property of the petitioner given as Security was worth ₹ 20.00 lakhs. So the employment of the petitioner and the loan arrears due to the bank should not have been connected.

25. Of course the petitioner has come forward with a dispute after several years. On this ground alone the claim of the petitioner could not be rejected. The petitioner has detailed and the Bank has also asserted the circumstances under which the petitioner has left the job and these are already referred to. In fact since the right of the petitioner for pensionary benefits has already become crystallized on account of the deemed acceptance of his application for voluntary retirement, this should not matter also. Even

then considering the long delay in raising the dispute and that also alongwith the failure of the petitioner to give any information to the Bank regarding his whereabouts the relief can be moulded.

26. Before concluding, a contention that has been raised by the Counsel for the Respondent at the stage of argument regarding the maintainability of the dispute is also to be referred to. It has been argued by the Counsel for the Respondent that it is not a case of termination of the petitioner from service but a case of his abandonment of service and therefore Section-11A of the Act is not applicable, the petitioner having not been discharged or dismissed from service. In answer to this, the counsel for the Petitioner has argued that the contention regarding maintainability of the dispute has not been taken by the Respondent at all in the Counter Statement. On the other hand, the Counsel for the Respondent argued that this stand of the counsel for the petitioner is incorrect. He also argued that in any case it is a question of law and can be agitated at any stage of the case even if it is not raised in the Counter Statement. Of course, the Respondent has stated in the Counter Statement that this is not a case of termination of employment but cessation of employment brought about by the conduct of the petitioner and therefore the petitioner is not entitled to challenge the termination. Thus, though not expressly stated that the dispute is not maintainable, there is somewhat vague contention to this effect in the Counter Statement. However, I do not think this contention on behalf of the Respondent could be accepted. I have already found that the petitioner must be deemed to have retired from service. In such a situation the respondent could not have treated the matter as cessation of service. It is in effect termination of service of the petitioner under the guise of cessation of service to deny terminal benefits to the petitioner. In this respect the counsel for the petitioner has referred to the decision in RAMASWAMY VS. THE MANAGEMENT OF WARWICK ESTATE reported in 2009 4 LLN 413 where the High Court has held that once workman approach the Labour Court challenging his non-employment it is incumbent on the part of Labour Court to find out whether his plea is justified or not. So in any case it was incumbent upon the Tribunal to consider the question whether it was abandonment of service or termination from service. As stated it is a case of termination under the guise of cessation of service. In fact it was not fair on the part of Respondent Bank to deny terminal benefits to the petitioner alleging cessation of service. The Respondent is an establishment having hundreds of branches all over India. The petitioner was a person who had served the Respondent for long 34 years. He was certainly entitled to the pensionary benefits which is a right he has accrued by the service of the Respondent for years together. The

Respondent should have been more considerate in its attitude towards the petitioner. I find that the Respondent has denied benefit to the petitioner under the guise of cessation from service.

27. Considering that the petitioner had raised the dispute with a lot of delay, the benefits payable to him until the day of his raising the dispute will be limited to 50%.

28. On the basis of my discussion above, an award is passed as follows:

- (i) The petitioner is deemed to have retired after three months of receipt of Ext.M3 by the Respondent.
- (ii) the Respondent shall pay 50% of the retirement benefits due to the petitioner from the date of retirement to the date of raising the dispute.
- (iii) the Respondent shall pay the entire retirement benefits due to the petitioner from the date of raising the dispute until the date of award.
- (iv) the amounts payable under heads (ii) and (iii) shall be paid within one month of the award in the absence of which interest will be payable @ 9% per annum.
- (v) The Respondent shall continue to pay pension to the petitioner from the date of the award.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri M. K. Narayanan
Petitioner

For the 2nd Party/ : MW1, Sri S. Balasubramanian
Management

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	08.06.2004	Letter issued by the Bank
Ex.W2	23.07.2004	Application for pension
Ex.W3	29.10.2004	Letter from the Bank
Ex.W4	16.12.2005	Letter from the petitioner
Ex.W5	16.07.2007	Certificate issued by the Bank
Ex.W6	07.09.2007	Letter from the petitioner
Ex.W7	15.12.2008	Letter from the petitioner

Ex.W8	04.06.2009	Letter issued by the Bank	Ex. M10	-	Petition under Provisional Insolvency Act – IP No. 2 of 1996.
Ex.W9	04.03.2010	Letter issued by the Bank			
On the Management's side					
Ex. No.	Date	Description	Ex. M11	-	Petition under Provisional Insolvency Act under I.P. No. 3 of 1996.
Ex. M1	22.12.1995	Communication from Bank – Coimbatore Main Branch to the Petitioner.	Ex. M12	26.02.1998	Letter from Mr. MR Sankaran, Manager, RO, Coimbatore addressed to AGM, RO, Coimbatore regarding the petitioner.
Ex. M2	13.12.1995	Letter from Mr. R. Kasthuri Ranga, Advocate, Coimbatore to the petitioner with copy to the Bank – Lr. Ref. No. LN/656/95.	Ex. M13	03.06.2004	Letter from petitioner to Regional Manager, Coimbatore.
Ex. M3	28.11.1995	Letter from petitioner to the Bank addressed to Central Office, Bombay through Coimbatore Main Branch submitting application for Voluntary Retirement on health grounds.	Ex. M14	19.03.2010	Letter from RO Coimbatore under reference RO/HRM-1155/2010 addressed to petitioner with postal receipt and postal acknowledgement with the signature of the petitioner enclosing copy of petitioner's letter dated 04.03.2010, 25.03.1996, 07.02.1996 and 12.01.1996.
Ex. M4	02.12.1995	Inter Office letter RO/PER/980 from Regional Office, Coimbatore to Zonal Office, Madras regarding the petitioner.	Ex. M15	26.07.2000	Letter from Ministry of Finance, Govt. of India under reference F.No. 4/8/7/99/IR addressed to Deputy Personnel Adviser, Indian Bank Association, Mumbai.
Ex. M5	29.12.1995	Inter Office letter bearing No. ZO/SZ1/BP/8884–Zonal Office, Madras to AGM, RO, Coimbatore regarding the petitioner.	Ex. M16	14.12.2011	Notice from ALC(C), Madurai addressed to Union Bank, Mumbai, enclosing copy of 2A petition dated 03.12.2011 of petitioner.
Ex. M6	25.03.2006	Memo from R.O., Coimbatore under reference RO/PER/1481 addressed to the petitioner.	Ex. M17	12.04.2012	Reply statement filed by petitioner before ALC(C), Chennai.
Ex. M7	-	The above cover sent to the petitioner to his residential address returned undelivered with endorsement “Party Left”–returned cover unopened and filed with postal Acknowledgement.	Ex. M18	23.08.2012	Conciliation Failure Report by ALC(C), Madurai.
Ex. M8	13.09.1996	Letter from Chief Manager under reference STF/595/96 addressed to the petitioner.	Ex. M19	15.02.2005	Letter from Coimbatore Main Branch under reference No. STF/654/05 addressed to the Petitioner regarding settlement of gratuity benefit by cheque for ₹ 2,14,047/- and crediting to his SB Account Number.
Ex. M9	25.05.2000	Letter from Chief Manager addressed to the petitioner regarding abandonment of service, settlement of terminal benefits etc. STF/315/2000.			

Ex. M20 03.08.2004 Inter Office letter from RO, Coimbatore to Chief Manager, Coimbatore Main Branch under reference RO/HRM/568/2004 – releasing terminal benefits to the petitioner ₹ 1,49,318.02 towards his PF with request to credit the proceeds to petitioner's SB Account and copy cheque No. "294557" dated 16.07.2003.

नई दिल्ली, 13 नवम्बर, 2014

का.आ. 2958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 120/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/44/2002-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2014

S.O. 2958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 120/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of the Bank of India and their workmen, received by the Central Government on 05/11/2014.

[No. L-12012/44/2002-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT:

RAKESH KUMAR, PRESIDING OFFICER

I.D. No. 120/2002

Ref. No. L-12012/44/2002-IR(B-II) Dated: 07.07.2002

BETWEEN:

Shri Santosh Kumar Yadav
C.K. 63/48, Chhoti Piari
Varanasi (U.P.) – 221 001

AND

The Zonal Manager
Bank of India
Varanasi Zone Plaza Complex,
Bhelupura Varanasi (U.P.) – 221 001

AWARD

1. By order No. L-12012/44/2002-IR(B-II) Dated: 07.07.2002 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Santosh Kumar Yadav, C.K. 63/48, Chhoti Piari, Varanasi (U.P.) and the Zonal Manager, Bank of India, Varanasi Zone Plaza Complex, Bhelupura, Varanasi (U.P.) to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF BANK OF INDIA IN TERMINATING THEIR SERVICES OF SHRI SANTOSH KUMAR YADAV W.E.F. 3.9.2001 IS LEGAL AND JUSTIFIED. IF NOT, WHAT RELIEF IS HE ENTITLED FOR?”

3. The case of the workman, Shri Santosh Kumar Yadav, in brief, is that he was engaged by the opposite party bank in the year 1994 as sub-staff whose services have been terminated by the Bank orally on 03.09.2001. It has been submitted by the workman that he worked for more than 240 days in a block of twelve months continuously even then the Bank terminated his services without any notice or notice pay in lieu thereof, thereby violating the provisions of Section 25 F of the Industrial Disputes Act, 1947. Accordingly the workman has prayed that his termination be set aside and the management of the Bank be directed to reinstate the workman with all consequential benefits including full back wages.

4. Per contra, the management of the Bank of India has disputed the claim of the workman through its written statement wherein it has submitted that there is prescribed procedure for appointment in the bank and the claimant had never gone through the selection process, as such, he was never appointed by the bank at any point of time. It is submitted by the bank that whenever required, casual labours are hired from open market on daily wage basis and are paid accordingly; hence they could not be called the employees of the bank. The bank has denied continuous working of the said workman and has also denied his termination or violation of the any of the provisions of the Industrial Disputes Act, 1947. Accordingly, the management of the Bank has prayed that the claim of the workman be rejected without any relief to him.

5. The workman has filed the rejoinder whereby he has only reiterated his averments in the statement of claim and has not introduced any new fact.

6. After submission of documentary evidence in support of their respective cases by the parties, the workman examined himself and Shri Narayan Singh; whereas the management adduced evidence of Shri Dudh Lal Ram to corroborate their pleadings. The parties availed opportunity to cross-examine the witnesses of each other. After conclusion of parties' evidence, the case was fixed for arguments of the parties on merits, when the workman moved an application W-57 regarding closure of the case.

7. The workman in the application W-57, mentioned that the workmen's Union has entered into a settlement dated 25.06.2013 with the opposite party before the Regional Labour Commissioner (Central), Mumbai; whereby the opposite party has included him, in the selection procedure and has declared him successful for appointment in the Bank's services. It was stated by the workman that in view of the settlement, he is not willing to contest the present industrial dispute anymore; and prayed that the case may be disposed of accordingly. It is also mentioned in the application stated by the workman.

8. Heard workman and perused the application W-57, accompanied with the settlement dated 25.06.2013.

9. The workman in its application W-57 has stated that a settlement dated 25.06.2013 has been arrived between the Union of the workmen and the Bank; and in accordance thereto the workman has undergone regular selection procedure and is declared successful for appointment in the services of the Bank. The workman has stated that in view of the settlement, there is no need to proceed with the present industrial dispute and accordingly, has expressed its willingness not to contest the present dispute with prayer to dispose of the same accordingly.

10. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the action of the management and if no evidence is produced the party invoking jurisdiction of the Court must fail. In the instant case the burden was on the workman to prove that the action of the management of Bank of India in terminating the services of the workman was illegal and unjustified. The stand of the workman was denied by the management of the bank and the parties adduced oral evidence too in support of their rival pleadings; but before submission of their final arguments on merit, the workman has come forward with application, W-57, stating therein that since his grievances have got redressed by the opposite party consequent to settlement dated 25.06.213, therefore, he

does not want to contest the present industrial dispute and wants the closure of the same. Accordingly, there is no need to proceed with the present industrial dispute, as grievances of the workmen stand redressed. Thus, the workman has prayed to pass suitable orders.

11. Although provisions of withdrawal of suits under Order 23 Rule 1 CPC are not applicable in the matter of reference under Section 10 of ID Act but, in view of the submission of the workman for withdrawal of the case, there is no grievance left with the workman. Resultantly, no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly.

12. Award as above.

LUCKNOW.

08th October, 2014.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 114/11) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-12011/56/2011-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 114/11) of the Central Government Industrial Tribunal-Cum-Labour Court, Delhi as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 10/11/2014.

[No. L-12011/56/2011-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, KARKARDOOMA COURT
COMPLEX,
DELHI 110 032**

Present:

Shri HARBANSH KUMAR SAXENA

ID No. 114/11

Smt. Shashi Kakkar
The General Secy.
All India Bank Staff Association,
33-34, Bank Enclave , Ring Road

Versus

The Branch Manager
SBI, DMS, Shadipur Branch,
New Delhi-110008

NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-12011/56/2011-IR(B-1)) dated 01.12.2011 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the action of the management of State Bank of India, DMS Shadipur Branch, New Delhi in denying payment of the lumpsum Ex-gratia amount under the SBI Scheme of ‘Payment of Ex-Gratia lumpsum Amount in lieu of Compassionate Appointment to Smt. Shashi Kakkar W/o late Sh. Ish Kumar Kakkar, Sr. Assistant , who died while in service on 01.06.2005, only on the ground of delayed application , is legal and justified? To what relief the Union/Smt. Shashi Kakkar is entitled?”

On 19.12.2011 reference was received in this tribunal. Which was register as I.D No. 114/2011 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Several opportunities given to workman as well as management but neither workman nor management filed claim statement / Response to the reference.

In this background there is no option to this tribunal except to pass No Dispute Award because parties are not interested to file their respective pleadings.

On the basis of which none of the parties can be directed to adduce its evidence.

No Dispute Award is accordingly passed.

Dated:-18/09/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या

11/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 21/10/2014 को प्राप्त हुआ था।

[सं. एल-41011/113/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2014) of the Central Government Industrial Tribunal-Cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the management of the Western Railway and their workmen, received by the Central Government on 21/10/2014.

[No.L-41011/113/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 11 of 2014

Parties: Employers in relation to the management of Western Railway

AND

Their workmen.

Present: Justice DIPAK SAHA RAY, Presiding Officer

Appearance:

On behalf of the Management : None.

On behalf of the Workmen : None.

State: West Bengal. Industry: Railway.

Dated: 17th October, 2014.

AWARD

By Order No.L-41011/113/2013-IR(B-I) dated 12.02.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the demand of the union to give the benefits of finally pension, gratuity, leave encashment, fund, workmen compensation and to give service to the son of Shri Parvat Chandra in Railway is legal proper and just? If so, to what relief the concerned workman is entitled to?”

2. When the case was taken up on 15.10.2014, none appeared on behalf of either of the parties. It appears from the record that none of the parties to the present dispute ever appeared before this Tribunal nor they have taken any step to proceed with this reference inspite of service of notice and inspite of specific order of the Tribunal on the last date viz. 14.08.2014.

3. Considering the above facts and circumstances, it appears that the parties to the present reference are not at all interested to proceed with the case further. So, no useful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,
The 17th October, 2014.

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लक्ष्मी विलास बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 60/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/09/2013-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 60/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the management of the Lakshmi Vilas Bank Ltd. and their workmen, received by the Central Government on 10/11/2014.

[No. L-12012/09/2013-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM- LABOUR COURT CHENNAI

Wednesday, the 29th October, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 60/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Lakshmi Vilas Bank and their workman)

BETWEEN:

Shri P. Ramachandran : 1st Party/Petitioner

AND

The General Manager/HR : 2nd Party Respondent
Lakshmi Vilas Bank Ltd.
Administrative Office,
Salem Road, Kathapara
Karur-639006

Appearance:

For the 1st Party/ : M/s. K.M. Ramesh, Advocates
Petitioner

For the 2nd Party/ : M/s. T. R. Sathiyamohan, Advocates
Management

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/09/2013-IR(B-I) dated 28.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Lakshmi Vilas Bank in imposing the punishment of dismissal without notice on Sri Ramachandran, Clerk is legal and justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of Industrial Dispute this Tribunal has numbered it as ID 60/2013 and issued notices to both sides. Both sides entered appearance through their counsel and filed their Claim and Counter Statement respectively. The petitioner has filed rejoinder in answer to the counter statement filed by the Respondent.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner had joined the service of the Respondent Bank as Clerk in 1980. During the year 2005 the petitioner was working in Kathampara branch, Karur. While working so, the petitioner was placed under suspension by proceedings dated 19.06.2010. The petitioner was issued with a charge sheet on 20.07.2010. In the charge sheet it was alleged that the petitioner had pre-closed a deposit of one Mangayarselvi and credited ₹ 7500/- being government subsidy to the account of one Manikandan, a Sub-Staff of Papanad branch of the

Respondent Bank on 04.07.2009. The petitioner is said to have done this by misusing the password of the Manager who was on leave, without his knowledge. The petitioner is said to have defrauded the bank by misappropriating the govt. subsidy by his above act. Though the petitioner has given reply to the charge sheet denying the allegation, it was not accepted and an enquiry was conducted against the petitioner. The enquiry which was commenced on 30.10.2010 was concluded on the same day. The petitioner was not given opportunity to defend his case. The Enquiry Officer gave a report finding the petitioner guilty of the charges. On the basis of the report, the punishment of dismissal without notice was imposed on the petitioner by the Disciplinary Authority. The finding of the Enquiry Officer is perverse and is bad in law. The punishment imposed on the petitioner is illegal and unjustified. An order may be passed holding that the action of the Respondent in imposing the punishment of dismissal without notice on the petitioner is illegal and unjustified and directing the Respondent to reinstate the petitioner in service.

4. The Respondent has filed Counter Statement contending as follows :

The petitioner who was working as Clerk in Kathamparai branch of the Respondent Bank was suspended from service from 19.06.2010 consequent to certain acts of misconduct on his part. A charge sheet was issued to him subsequently, regarding the misconduct committed by him. One Mangayarselvi had availed loan of ₹ 1,50,000/- on 23.12.2003 with govt. subsidy of ₹ 75,00/- and the same was kept in fixed deposit. The account became non-performing asset and was closed on 21.04.2009 without adjusting the subsidy in deposit. On 04.07.2009, the petitioner had pre-closed the deposit which was due on 04.06.2010 and had fraudulently credited it to the account of Manikandan, Sub-Staff of Papanad branch. The entries were originated using the Teller Id of the petitioner and authorized using the password of the Manager without his knowledge. In the explanation given by the petitioner to the Charge Sheet, he had admitted having committed the misconduct. The claim that he had done so by mistake is an afterthought. The explanation submitted by the petitioner was not satisfactory and a departmental enquiry was contemplated. The petitioner was given full opportunity to defend himself. On conclusion of the enquiry, Enquiry Officer has found the petitioner guilty of the charges leveled against him. A show cause memo was issued to him affording a personal hearing and the Disciplinary Authority had passed a final order considering all the material factors, imposing the punishment of removal from service, with immediate effect on the petitioner. The appeal preferred by the petitioner to

the appellate authority has been rejected. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and also reiterating the case in the Claim Statement.

6. Though in the Claim Statement and in the Rejoinder, the petitioner has raised a contention that Enquiry was not conducted in a fair and proper manner, this contention has been given up by him before the trial was started. The counsel has made endorsement to this effect.

7. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to W8 and Ext.M1 to M18.

8. The points for consideration are:

- (i) Whether the action of the Respondent bank in imposing the punishment of dismissal without notice on the petitioner is legal and justified?
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

9. The petitioner who had started to work as a Clerk in the Respondent Bank in the year 1980 was working in Kathamparai Branch at the time of the alleged incident. The incident relates to pre-closing the subsidy amount due to an account holder kept in fixed deposit. The allegation is that on 04.07.2009 the petitioner had pre-closed this deposit fraudulently and credited it to the account of one Manikandan who had been a Sub-Staff of another branch of the Respondent Bank. The entries regarding the transaction were allegedly made by the petitioner using his teller id and misusing the password of the Manager.

10. In the explanation submitted by him to the Charge Sheet and marked as Ext.M2 the petitioner has not denied to have pre-closed the fixed deposit and credited to the account of Manikandan. He has also not denied the allegation that he has used the password of the Manager who was on leave on the particular day. The petitioner stated in his explanation that it was common at Kathamparai Branch to use the password of the Manager by other officials and staffs whenever the Manager was out for any other work. According to the petitioner on 04.07.2009, the day in question while he was very busy at the counter Sub-Staff Manikandan of Papanad Branch had called him over phone and had requested him to send ₹ 10,000/- immediately. Having sufficient balance in his savings account he had obliged Manikandan. However, when he was about to pass entries for ₹ 7,500/- from his savings

account by oversight he had made a wrong entry and debited deposit amount related to the loan account. According to him when he came to know of the mistake he had telephoned Manikandan and Manikandan had remitted the sum to the credit of Kathamparai Branch. According to the petitioner, he had not committed the act intentionally or deliberately. Immediately on realizing the wrong entry he had made the beneficiary remit the amount.

11. In the enquiry proceedings, the officer who had enquired into the irregularities committed by Sub-Staff Manikandan, the then Manager of the Kathapara Branch and the subsequent Manager of the Branch were examined. It could be seen from the evidence by MW1 that the incident which is the subject matter of the dispute was revealed while enquiring into the misconduct of Manikandan. The report given by MW1 regarding Manikandan has been marked in the enquiry proceedings. The witness has stated that during enquiry the transaction in respect of ₹ 7,500/- received at the account of Manikandan from Kathapara branch on 04.07.2009 was noticed and it was also found that the transaction pertains to closure of proceeds of PMRY Subsidy Deposit of one Mangayarselvi.

12. There is also the evidence given by MW2, the Branch Manager. On 22.06.2010 the Manager has written to the HRD Department regarding the closure of subsidy deposit in the name of Mangayarselvi and transfer of the amount to the account of Manikandan. MW2 has stated that the entry was authorized with his own password while he was on leave. He stated that he has not given his password to the petitioner. He stated that he came to know of the missing of the FD Receipt only after investigation by MW1.

13. MW3 was examined to prove the related documents pertaining to the incident. The document regarding the fixed deposit, the loan ledger extract pertaining to the term loan of Mangayarselvi and the statement of account of Mangayarselvi were marked through this witness. The Teller Transaction Report on the particular date and also the copy of the letter given by the petitioner on 05.06.2010 are also proved through this witness. As already stated it is not disputed by the petitioner that he is the one who had pre-closed the deposit and credited the amount to the account of Manikandan. The duty of the two Managers through their evidence was only to assert this case. The defence put forth by the petitioner is that it was by way of mistake the transaction was made by him. What he has stated is that Manikandan had asked him a loan of ₹ 10,000/- and he had obliged since he has sufficient balance in his account. According to him inadvertently, rather than debiting from his own account he had pre-closed the fixed deposit and credited to the account of Manikandan. He

has stated that his innocence will be proved by the fact that he has remitted back the amount immediately.

14. Though it was claimed in the explanation given by the petitioner to the Charge Sheet itself that he has remitted back the amount, the petitioner has conspicuously omitted to give the date on which the remittance was made. During his argument, the counsel for the petitioner has stated that the remittance was made within two hours. However, I do not find from any of the documents produced that the amount was remitted back within two hours after the transaction was entered into by the petitioner. In the written argument of defense submitted on behalf of the petitioner before the Enquiry Officer the case is that the amount was remitted back within 21 days. But one does not know to which date this 21 days relates to, whether from the date of the transaction or from the date of enquiry report by MW1. In the written arguments filed on behalf of the Respondent it is stated that only after a year of the Investigating Officer detecting the illegal transfer the amount has been remitted. This statement certainly reveals that the amount has been remitted, but only after the misconduct was detected by MW1 while inquiring into the misconduct of Manikandan.

15. Is it possible that the petitioner by inadvertence committed the mistake of pre-closing the fixed deposit and remitting the amount to the account of Manikandan rather than debiting his own account and crediting to the account of Manikandan? Even according to the petitioner the demand by Manikandan was for ₹ 10,000/-. According to him he had sufficient balance in his account also. If so, the petitioner would have been crediting ₹ 10,000/- itself to the account of Manikandan rather than a lesser amount. It is difficult to accept the case given by the petitioner in his explanation that it was by mistake he had pre-closed a fixed deposit in the name of Mangayarselvi. The subsidy was payable only on 04.06.2010 and that is why it was put in fixed deposit. In the meanwhile the account of Mangayarselvi had become non-performing asset and it was closed. It was in such a situation the petitioner had pre-closed the deposit on 04.07.2009 and credited it to the account of Manikandan. Pre-closing of a fixed deposit is a transaction quite different from debiting a subsisting account and transferring the amount to another account. This would not have happened by inadvertence. Again it is unlikely that the petitioner would not have noticed the mistake at least within a few days, if it was actually a mistake. His case is that he was under the impression that his own account was debited for crediting to the account of Manikandan. If this is a case, during the next transaction pertaining to his own account he would have noticed the same. Manikandan who received the amount would have informed him also. However, he had waited until the

incident was disclosed through the enquiry report of MW1 to remit the amount. So it is difficult to believe the case of the petitioner that it was a mistake on his part.

16. There is also the fact that the petitioner had admittedly used the password of the Manager to authorize the entry. MW2, the Manager has stated that he has not revealed the password to the petitioner. The case of the petitioner himself is that the branch was in the habit of using the password of the Manager in his absence. It is not denied that the Manager was on leave on the particular date. There is the evidence given by the Manager that there are other Officers who are empowered to authorize the entries. While the Manager was on leave no one could be expected to use his password with or without his permission. When on leave the Manager does not have any power to authorize the transaction. There would have been other Officers who were empowered to do so. So it is clear that the petitioner was unauthorizedly using the password of the Manager. The case of inadvertent mistake advanced by the petitioner could not be accepted at all.

17. The counsel for the petitioner has argued that except on sufficient and reliable proof one should not be found guilty especially when the misconduct alleged is criminal in nature. The counsel has referred to the decision of the Madras High Court in VINCENT VS. THE DIRECTOR OF GOVERNMENT EXAMINATIONS AND ANOTHER in Writ Appeal No. 320/79 in this respect. However, here it is not a case where there is no reliable proof regarding the guilt of the petitioner. The Enquiry Officer had every justification for finding the petitioner guilty.

18. The punishment of dismissal without notice was imposed on the petitioner by the Disciplinary Authority. It has been pointed out that the petitioner had been working for more than 30 years and there was no allegation of misconduct against him earlier. When this fact is taken into account, I feel that the punishment is not in proportion to the gravity of the offence committed. The punishment of Compulsory Retirement from service would meet the ends of justice.

19. Based on the discussion above, an award is passed as follows:

The punishment imposed on the petitioner is modified to one of Compulsory Retirement from service.

20. The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Ramachandran

For the 2nd Party/Management : None

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	19.06.2010	Xerox copy of the proceedings of the Disciplinary Authority
Ex.W2	09.08.2010	Xerox copy of the reply submitted by the petitioner to the charge sheet
Ex.W3	05.10.2010	Xerox copy of letter from Disciplinary Authority appointing Enquiry Officer
Ex.W4	15.10.2010	Xerox copy of letter from Enquiry Officer to the petitioner
Ex.W5	23.10.2010	Xerox copy of letter from Enquiry Officer to the petitioner
Ex.W6	23.10.2010	Xerox copy of defence written argument submitted by the petitioner to the Enquiry Officer
Ex.W7	24.02.2011	Xerox copy of the proceedings of the Disciplinary Authority
Ex.W8	02.03.2011	Xerox copy of the minutes of the personal hearing before the Disciplinary Authority

On the Management's side

Ex.No.	Date	Description
Ex.M1	20.07.2010	Charge Sheet filed by the Respondent
Ex.M2	09.08.2010	Explanation to the Charge Sheet
Ex.M3	05.06.2010	Exhibit M.1 filed by the Respondent in the domestic Enquiry
Ex.M4	04.07.2009	Exhibit M.2 filed by the Respondent in the domestic Enquiry
Ex.M5	-	Exhibit M.3 filed by the Respondent in the domestic Enquiry
Ex.M6	-	Exhibit M.4 filed by the Respondent in the domestic Enquiry
Ex.M7	-	Exhibit M.5 filed by the Respondent in the domestic Enquiry
Ex.M8	23.10.2003	Exhibit M.6 filed by the Respondent in the domestic enquiry

Ex.M9	05.06.2010	Exhibit M.7 filed by the Respondent in the domestic Enquiry
Ex.M10	-	Exhibit M.8 filed by the Respondent in the domestic Enquiry
Ex.M11	22.06.2010	Letter issued by the Manager to the Deputy General Manager
Ex.M12	20.07.2010	Proceedings of the domestic enquiry
Ex.M13	20.07.2010	Findings of the Enquiry Officer
Ex.M14	29.03.2011	Proceedings of the Disciplinary Authority issued to the petitioner
Ex.M15	28.04.2011	Appeal petition filed by the petitioner before the Appellate Authority
Ex.M16	14.06.2012	Proceedings of the Appellate Authority
Ex.M17	17.08.2012	Petition filed by the petitioner before the Conciliation Officer
Ex.M18	12/2012	Counter filed by the Respondent before the Conciliation Officer

नई दिल्ली, 14 नवम्बर, 2014

का.आ. 2962.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, पुणे के पंचाट (संदर्भ संख्या 4/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 17.10.2014 को प्राप्त हुआ था।

[सं. एल-41011/40/2007-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th November, 2014

S.O. 2962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 4/2009) of the Central Government Industrial Tribunal-Cum-Labour Court, Pune as shown in the Annexure in the Industrial Dispute between the management of the Central Railway and their workman, which was received by the Central Government on 17.10.2014.

[No. L-41011/40/2007-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE.

Reference (IT) No. 04 of 2009

Between :

The Divisional Railway Manager
Central Railway,
PUNE ...First Party

And

The Secretary
Rail Kamgar Sena,
C/o Central Railway,
PUNE ...Second Party

CORAM : D. H. DESHMUKH, Presiding Officer

Appearances :

Shri S. D. Uplenchwar, Advocate for First Party.

Smt. Sheetal Lokhande, Advocate for Second Party.

AWARD

Date : 11-09-2014

This is a reference made by Government of India, Ministry of Labour, New Delhi. The dispute/demand referred is as follows :-

“Whether the action of management of Central Railway, Pune in not giving promotion to Shri Babu Ballappa w.e.f. 28-8-1989, is legal and correct ? If not, what relief the concerned workman is entitled to ?

Initially the reference was made to the Labour Court, Pune. By subsequent order, it has been transferred to this Tribunal.

2. The second party union has contended that it is a registered trade union, representing the employees of the first party railway, and Shri Babu Balappa (concerned employee) was employed on daily wage basis from 17-10-1972, and was regularized in service w.e.f. 21-7-1980. He was granted status of a permanent employee on or about 28-8-1980. The concerned workman was working as a Khalasi under CIOW (M) Pune, but was redesignated as a Gangman, and transferred to PWI (M) Talegaon in public interest by order dt.15-9-1986 passed AEM (M), Pune who is appointing authority. The said authority maintains combined seniority list of the employees. The concerned workman was then transferred to CDF, Lonavala as a Khalasi for short period, and then transferred again to IOW Pune w.e.f. 25-2-1995 on administrative ground. The concerned workman continued to hold the same position in the seniority list. He passed trade test for skilled Artisan i.e. Fitter Grade III in 1989. The claim of the concerned workman for

promotion, was neglected on a lame excuse that he belongs to PWI. Juniors were promoted.

3. The concerned workman approached the administration of the first party for grant of seniority, and promotion, and thereafter, approached the Assistant Labour Commissioner through union. There, it was agreed to grant seniority w.e.f. 16-4-1986. Therefore, the case of seniority was closed on 19-9-2001. The benefit of seniority was granted from 16-4-1986, but he was not granted promotion to the next grade on par with his junior. It is contended that the trade test is conducted, only if there is a vacancy. The concerned workman was the senior most, and was therefore, trade tested in which he succeeded. The Labour Commissioner office directed the first party to consider the case of the concerned workman etc. The contention of the second party is that there was vacancy. The concerned workman passed trade test, and he was senior-most, and therefore, should have been promoted as Fitter Grade III w.e.f. 28-8-1989, when he passed the test. The concerned workman wants promotion, and consequential benefits from that date.

4. The first party was noticed. The first party appeared, and filed say Exh.C-4, denying the adverse allegations and the claim. According to the first party, the union cannot make claim on behalf of the individual employee. The claim is to be filed before Central Administrative Tribunal. This Tribunal has no jurisdiction. Then it is contended that the trade test was conducted on 17-3-1998, and the result was declared on 24-8-1998, and therefore, the present reference is time barred. It is contended that there is no ground to neglect the promotion, and side track the concerned workman without any reason. No juniors have been promoted. The claim made is not legal and valid etc.

5. The issues and my findings thereon, are as follows :-

ISSUES	FINDINGS
1. Whether the Tribunal has got jurisdiction to adjudicate the demand ?	...Yes.
2. Whether the action of not giving promotion to the concerned workman is legal & correct ?	...No.
3. What relief/award ?	...As per final award.

REASONS

6. For last several days, the first party has been absent. The second party has filed affidavit by way of evidence, and also documents, which are totally unchallenged. The affidavit of the concerned workman indicates that he passed the trade test in 1989. There was common seniority list maintained. His seniority was side tracked,

and his juniors Shri Chandrapal Kartar Singh and Shri Bhimrao Dayanand Patole were promoted without passing the trade test as required by the rules. The concerned workman approached the railway authorities, but no heed was paid. The first party agreed before Assistant Commissioner of Labour to give proper seniority, and therefore that, case was closed. Even after that, the concerned workman was not considered for promotion. The dispute was reheard by Regional Labour Commissioner. The first party tried to evade the responsibility by remaining absent etc. In the affidavit, all the necessary details are stated. The concerned workman has stated that his age of retirement is drawing near. He passed Trade Test in 1989, and was therefore, entitled to benefits at that time.

7. The documents produced support the contentions of the second party. The documents produced are not disputed by the first party. The documents include letter dt.4-9-2001 of the first party, in which it is conceded that the concerned workman is entitled to the seniority as a Khalasi w.e.f. 16-6-86. Internal correspondence like letter dt.6-3-2003, indicates that even according to the officer of the first party, immediate promotion was required to be given to the concerned workman. Another letter dt.2-11-2004 of Shri A. K. Jain of the first party indicates that according to the City Officer, seniority of the concerned workman will be with effect from the date of appointment i.e. 28-8-1980, and further that he had passed Trade Test in 1989. There is a letter dt.6-2-2006 from Regional Labour Commissioner of Pune to Divisional Railway Manager, in which certain facts are stated. The letter indicates that the Trade Test was passed in the year 1989. Further with great efforts, and after sufficient delay, the railway accepted the seniority w.e.f. 16-4-86. Further, part of the letter indicates that the seniority list should be from 21-7-1980. The Labour Commissioner also mentioned that the management of the first party was not taking the matter seriously, but was creating confusion against the concerned workman, which is not healthy for good relationship with the workers etc.

8. The record of Trade Test is also produced. The matter is more than 5 years old. There is no point in adjourning the matter further. I have gone through the record, and have heard the learned counsel for the second party. The appropriate Government can refer the dispute pertaining to promotion to this Tribunal, and therefore, the question of want of jurisdiction does not arise. The department of first party is industry, and the second party is clearly a workman, and therefore, Tribunal has jurisdiction. The existence of Central Administrative Tribunal is no bar to raise the dispute. Industrial dispute could be raised by a union also, and therefore, objection in that regard is also not proper. From the unchallenged material on record, I find that the concerned workman is

entitled to be promoted w.e.f. 28-8-1989, since he was senior-most and had passed the Trade Test. At least, two juniors were promoted. The concerned workman is entitled to be promoted as Fitter Grade III since 1989. The demand is justified.

AWARD

The first party i.e. Divisional Railway Manager, Central Railway, Pune, shall promote the concerned workman Shri Babu Ballappa as Fitter Grade III w.e.f. 28-8-1989, and shall grant him all consequential benefits arising out of promotion, including the monetary benefits.

D. H. DESHMUKH, Presiding Officer

Date : 11-09-2014.

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 70/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/77/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/77/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 70 of 2012 . Reference No. L-40012/77/2012/IR(DU) dated 7.01.2013

Shri Mohan Singh
son of Shri Makhn Singh,
resident of Village Lakhmire Uttar,
PO Mamdoot,
Tehsil & district Ferozepur.

...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur.

...Respondent

Appearances:

For the Workman : None.

For the Management : Sh. Anish Babbar.

AWARD

Passed On:-07.11.2014

Government of India, Ministry of Labour vide notification No. L-40012/77/2012/IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the demand of Shri Mohan Singh son of Shri Makhn Singh against the General Manager/DET/SDE,BSNL,Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter.”

2. Case repeated called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.

07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2964.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 69/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/78/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (I.D. No. 69/2012) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/78/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-I,
CHANDIGARH.**

Case No. ID 69 of 2012 . Reference No. L-40012/78/2012/IR(DU) dated 7.01.2013

Shri Pritpal Singh
son of Shri Bakhshish Singh,
resident of Village Dilla Ram,
PO Jhok,

Tehsil & district Ferozepur. ...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur.

...Respondent

Appearances:

For the Workman : None.

For the Management : Sh. Anish Babbar.

AWARD

Passed On:-07.11.2014

Government of India Ministry of Labour vide notification No. L-40012/78/2012/IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference:

“Whether the demand of Shri Pritpal Singh son of Shri Bakhshish Singh against the General Manager/DET/SDE, BSNL, Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter?”

2. Case repeatedly called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above, the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.

07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2965.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय भूवैज्ञानिक सर्वेक्षण के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 14/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/99/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 14/2013) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Geological Survey of India and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/99/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW**

PRESENT:

SHRI RAKESH KUMAR, Presiding Officer

I.D. NO. 14/2013

Ref. No. L-42011/99/2012-IR(DU) dated: 22.02.2013

BETWEEN :

The General Secretary
Geological Survey of India Employed
Nav-Nhetana Association, 466/202-201
Primerose House Peer Bukhara,
PO Chowk Lucknow - 226 001 .

AND

The Deputy - Director General & Head of Office
Geological Survey of India
Northern region, Sector - E
Aliganj Complex Lucknow.

AWARD

1. By order No. L-42011/99/2012-IR(DU) dated: 22.02.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General secretary, Geological Survey of India Employed, Nav-Chetana Association, 466/202-201, Primerose House Peer Bukhara, PO Chowk, Lucknow and the Deputy-Director General & Head of Office, Geological Survey of India, Northern region, Sector-E, Aliganj Complex, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication

2. The reference under adjudication is:

"WHETHER THE DEMAND OF GEOLOGICAL SURVEY OF INDIA EMPLOYEES NAV-CHETNA ASSOCIATION, LUCKNOW OVER NON-IMPLEMENTATION OF DEMAND POINTS NO. 01,2,7,10,11,19 AND 22 MENTIONED IN THE STRIKE NOTICE TO THE MANAGEMENT OF GEOLOGICAL SURVEY OF INDIA, NORTHERN REGION, LUCKNOW IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE ASSOCIATION IS ENTITLED TO?"

3. The order of reference was endorsed to the General Secretary, Geological survey of India Employed, Nav-Nhetana Association, 466/202-201, Primerose House, Peer Bukhara, PO Chowk, Lucknow with direction to the party raising the dispute to file the statement of claim along with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference and also forward copy of such a statement to each one of the opposite parties involved in this dispute under rule 10 (B) of the Industrial Disputes (Central), Rules, 1957.

4. The order of reference was registered in the Tribunal on 12.03.2013 by the Hon'ble Presiding Officer and the office was directed to issue registered notice to the workman' union for filing the statement of claim with list of reliance & list of witnesses on 12.04.2013. On the date fixed i.e. 12.04.2013 the General Secretary of the union, Shri S.A.H. Rizvi was present; but no statement of claim together with documents etc. was filed; accordingly, next date 21.05.2013 was fixed for filing of statement of claim. The Union remained absent on 21.05.2013 as well as on subsequent dates i.e. 16.07.2013, 30.08.2013, 30.10.2013, 15.12.2013, 28.01.2014, 25.03.2014, 25.03.2014, 20.05.2014, 14.08.2014 and

02.10.2014. The union neither turned up on any of the aforementioned dates nor moved any application or adjournment seeking time to file the statement of claim. More than a year's time has passed and the workman's union has failed to file its statement of claim, therefore, the case was reserved for award keeping in view the reluctance of the workman's union to contest the case.

5. In the above circumstances, it appears that the workman's union does not want to pursue its claim on the basis of which it has raised the present industrial dispute; therefore, the present reference order is decided as if there is no grievance left with the workmen's union. Resultantly no relief is required to be given to the workmen concerned. The reference under adjudication is answered accordingly.

6. Award as above.

Lucknow

30th October, 2014

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2966.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, हिन्दुस्तान एयरोनॉटिक्स लिमिटेड, लखनऊ डिवीजन और दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 70/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42025/03/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 2966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Hindustan Aeronautics Ltd., Lucknow Division & Others and their workman, which was received by the Central Government on 14/11/2014.

[No.L-42025/03/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW****PRESENT:**

RAKESH KUMAR, Presiding Officer

I.D. No 70/2011**BETWEEN:**

Sri Mansuri Singh
S/o Sh. Mahaveer Singh
R/o Ismailganj, Post Chinhath
Faizabad Road, Lucknow

AND

1. General Manager,
Hindustan Aeronautics Ltd.,
Lucknow Division, Lucknow
2. M/s. Shah Bandhu,
Sri Yogendra Prasad Shah,
Sanitation Contractor,
504 Viman Nagar,
GT Road,
Harendra Nagar,
Kanpur
3. M/s. Group-4 Facilities Service
Sri Nawal Kapoor,
Director Personnel,
1/97, Vidyut Khand Gomti Nagar,
Lucknow

AWARD

1. Applicant Sh. Mansuri Singh has submitted a claim statement dated 28.02.2011 before this Tribunal, stating therein that Hindustan Aeronautics Limited, Lucknow Division is an engineering industry and factory as well registered under the provisions of the Factories Act. The Government had issued a notification dtd. 24.04.1990 under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. The applicant has stated in the claim statement that Hindustan Aeronautics Ltd. employed the contract labour for sanitation of the factory premises. The sanitation work is perennial and regular nature of job. It has been emphasized that the workman/applicant was working in establishment right from the very beginning i.e. from the date when the factory was established and was continuously in job till the date of illegal termination.
2. It is asserted that during the said period the sanitation work was assigned to several contractors but the services of the applicant workman was

continuous and never interrupted. The applicant continuously worked in establishment of the Hindustan Aeronautics Ltd., Lucknow he was directly employed by the HAL, Lucknow. He neither employed by any contractor nor his services have been terminated by the contractor. It has also been pointed out in the claim statement that regular deductions viz Provident Fund and Employees State Insurance were made from salary of the applicant. Moreover the privileges of the Earned Leave, Casual Leave, Medical Leave etc. were also provided to him directly by the principal employer viz. Hindustan Aeronautics Ltd., Lucknow. The applicant states that although there was prohibition to employ contract labour in pursuance of the notification dated 24.04.1990 to contract labour yet the employers awarded the contract of sanitation work while it should have been entrusted to the regular employees. The act of the HAL is totally illegal and unjustified. The Government of India has prohibited to employ contractors for sanitation work of the building premises of the establishment.

3. It has also been mentioned that applicant workman was entitled to get same pay and allowances as were given to other regular employees of the HAL, Lucknow. HAL Karamchari Sabha (the Union) had moved an application against the illegal and unjustified act of the employer under Rule 25(2) (V) (b) of Contract Labour (Regulation & Abolition) Central Rules 1971 which was considered by the RLC(C), Lucknow and he gave direction on 28.04.1989 to pay the similar pay and wages etc. which were being paid to other regular employees. Thereafter the employer had filed writ petition before Hon'ble High Court challenging the directions given by the RLC(C) Lucknow but the writ petition was dismissed by Hon'ble High Court vide judgment dated 28.01.1994 and order passed by RLC(C), Lucknow was confirmed. The workman has stressed that being aggrieved by the judgment dtd. 28.01.1994 passed by Hon'ble High Court, the employer preferred a Special Leave Petition before the Hon'ble Supreme Court which was also dismissed and thereafter the employer filed a review petition and the same was also dismissed by the Hon'ble Supreme Court. Thereafter, the employer started to pay the Basic Pay, D.A. and CCA at par with the unskilled employees but HRA and annual increments were not being provided. The workman union preferred the case under the provisions of the U. P. Industrial Peace (Timely Payment of Wages) Act, 1978, thereafter a recovery certificate was issued against the employers.

4. The applicant has further stated that in pursuance of mutual settlement the employers enhanced the pay of the directly employed unskilled workers from ₹ 1880/- to ₹ 3000/- but the workers who were shown to be

employed through contractor were being paid ₹ 1880/- per month and their wages were not enhanced. Consequently the union filed another case under the provisions of the U. P. Industrial Peace (Timely Payment of Wages) Act, 1978 which caused annoyance to employer and they began to conspire for terminating the services of the workmen including the workman/applicant. Ultimately the services of applicant workman were terminated w.e.f. 21.12.2001.

5. The applicant has stated that the compliance of Section 25N of the I.D. Act was necessary but the employers before terminating the services of the workman, did not follow the mandatory provisions of I.D. Act.

6. It has been emphasized in the claim statement that services of the workman were never terminated by the contractor but it had been terminated by the principal employer and the work which was being performed by the concerned workman is still existing with the employers and the same is being carried through new workmen on contract basis which is unjustified and illegal. It has also been stressed that earlier the said union had raised this dispute before the State Government which referred for proper adjudication before the Industrial Tribunal (II) U. P., Lucknow which is being proceeded before the Industrial Tribunal (II) U. P., Lucknow as Adj. Case No. 126 of 2002. Since the applicant workman was not satisfied with the efforts made by the union as such a authority letter was filed alongwith an application by 20 workmen to represent the said case but the union filed objections that the applicant are not party in the said case as he is not entitled to represent the case. The Hon'ble Presiding Officer vide order dtd. 10.3.2010 directed if the workman was not satisfied with proceedings of the union they can raise separate dispute under the provisions of Act. Thereafter 36 workmen including the concerned workman moved an application dated 10.07.2010 before the Hon'ble Presiding Officer, Industrial Tribunal (II) U. P., Lucknow for deletion of the names of the workmen from the reference order so that they may be in position to raise fresh industrial dispute before the competent Forum and the Hon'ble Presiding Officer, Industrial Tribunal (II) U.P., Lucknow was pleased to allow the said application except three whose name were not mentioned in the reference order.

7. The workman further stated that in pursuance of the order dated 20.07.2010 the workman concerned along with 32 other workmen filed an application before Regional Labour Commissioner (C), Lucknow which was registered case No. LKO-8(2-32)/2010. The RLC (C) Lucknow called upon the parties for conciliation

proceedings but due to negative attitude of the employers no settlement could be arrived between the parties. Since the mandatory period of 45 days had been expired as such the concerned workman sought the permission from the Regional Labour Commissioner (C) Lucknow to withdraw the case and to approach the Hon'ble Court on 27.01.2011 which was accepted by the RLC (C) Lucknow and in pursuance thereof, the applicant has approached this Tribunal for adjudication of Industrial Dispute as prevalent between the workman and HAL. The applicant has emphasized that so called contract system was a mere camouflage, smoke and a serene and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the principal employer i.e. HAL in the instant case. The termination 'of the services of the workman has been termed as void-ab-initio by the applicant. The mandatory provisions of the Industrial Disputes Act, 1947 not followed filed by the HAL. Act of the opposite party has been alleged as illegal and void and the workman claims himself to be entitled to get the reinstatement in service alongwith full back wages. It has also been mentioned in the claim statement since the date of termination upto the date of filing claim statement applicant is unemployed and despite of his best efforts, he could not be gainfully employed any where else.

8. The photo copy of the order passed by RLC (C) Lucknow dt. 10.02.2011 has been enclosed. The Industrial Dispute was got registered as per the direction of the then Hon'ble Presiding Officer, CGIT-cum-Labour Court and registered notices were issued to the management for filing written statement alongwith relevant documents.

9. Preliminary objections M-8 were filed on behalf of opposite parties no., 1 & 2. Opposite Parties have pointed out that Presiding Officer, Industrial Tribunal (II) UP informed them that the said dispute have been referred by appropriate government vide order dtd. 13.06.2002 and adjudication no.126/02 was registered. The name of the concerned workman was included in the list consisting of 89 persons. During the course of adjudication before the said Tribunal a group of 36 persons moved an application dated 10.5.2010 for withdrawal of their names so that they may file a separate case before the competent authority but the name of the applicant workman was not mentioned in that list, thereafter the Industrial Tribunal (II) UP vide order dated 20.8.2010 was pleased to delete the name of the said workmen except at Sl. No. 32, 33, & 34 from the list of reference order then a group of 33 persons has filed an application dated August 2010 under Section 10 of the I.D. Act., before the RLC (C), Lucknow with the prayer to call upon the employer for proper adjudication, the name of the applicant workman was mentioned at Sl. No. 11 in the list of applicants moved

there. The establishment filed objection before RLC (C) Lucknow and on 27.1.2011 during the conciliation proceedings, the authorized representative of the workmen has requested the learned conciliation officer to withdraw the Industrial Dispute so as to raise the same directly before the CGIT-cum-Labour Court, Lucknow.

10. The opposite parties have also mentioned that conciliation officer in its letter dated 10.2.2011 addressed to the Secretary, Govt. of India, Ministry of Labour and Employment, New Delhi informed that conciliation file has been closed on the request of concerned workman, thereafter the workman has filed a claim statement before the Tribunal on the same issue which has been registered at I.D. No. 70/2011.

11. It has been emphasized by opposite parties No. 1 & 2 that workman can not raise industrial dispute for adjudication by two different forum on the same matter of dispute, the concerned workman is still a party in the adjudication case No.126/2002 pending before Industrial Tribunal (II) U. P. Lucknow. The opposite parties No. 1 & 2 stressed that the present claim is barred by limitation U/s 2A (3) of the ID Act., since the workman has moved after lapse of about 10 years after the date of termination of services. It has also been alleged by the opposite parties No. 1 & 2 that the workman has not come before the Tribunal with clean hands, and he has suppressed the fact. Accordingly, opposite parties No. 1 & 2 have requested to reject the claim filed by the workman.

12. Several dates were given to the par Lies but no rebuttal/reply/rejoinder was filed by the workman regarding preliminary objections raised by the opposite parties No. 1 & 2.

13. On 13.08.2013 the learned AR of the applicant workman made an endorsement in waiting on the claim statement "I WANT TO NOT PRESS THIS CASE.". Allegedly, the matter is already pending before the Hon'ble Industrial Tribunal-II, U. P., Lucknow in Pursuance of the reference madely the U. P. Government under Section 4-K of UP Industrial Disputes Act, 1947.

AWARD

14. Under the circumstances and the facts mentioned herein, no relief is legally required to be given to the applicant/workman Sh. Mansuri Singh. The reference under adjudication is answered as NO CLAIM AWARD.

15. Award as above

LUCKNOW

28th October, 2014

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2967.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 92/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/19/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 92/2014) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Inter National Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/19/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No 92 of 2014. Reference No. L-42011/19/2014-IR(DU) dated 05/05/2014

Shri Bhagat Singh,
Son of Shri Bishan Singh,
Ex-workman C/o Shri Hublala Yadav,
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003. ...Workman

VERSUS

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Plaza III
Sector-10, Dwarka,
New Delhi 110075.

2. The General Manager,
M/s. International Centre for
Automotive Technology
Plot No. 26, Sector-3, HSIDC,
IMT Manesar, Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None.

For the Management : Sh. Ashutosh Verma and
Rajender Aneja for Res-
pondents

AWARD

Passed on : 03.11.2014

Government of India Ministry of Labour vide notification No. L-42011/19/2014-IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication :

Term of Reference:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Bhagat Singh son of Shri Bishan Singh Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date."

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2968.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबंध में और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 91/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/18/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 91/2014) of the Central Government Industrial Tribunal-Cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Other and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/18/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No ID No. 91 of 2014. Reference No. L-42011/18/2014-IR(DU) dated 06/05/2014

Shri Ajesh Sharma,
Son of Shri Ram Kumar Sharma,
Ex-workman C/o Shri Hublala Yadav.
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003. ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Plaza-III
Sector-10, Dwarka,
New Delhi 110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology Plot No. 26
Sector-3. HSIDC, IMT Manesar,
Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None.

For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed on:-03.11.2014

Government of India Ministry of Labour vide notification No L-42011/18/2014/IR(DU) dated 06/05/2014 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Ajesh Sharma son of Shri Ram Kumar Sharma, Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 90/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/17/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 90/2014) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/17/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No. 90 of 2014. Reference No. L-42011/17/2014/1R(DU) dated 08/05/2014

Shri Surender Kumar Jogi,
Son of Shri Amar Singh,
Ex-workman C/o Shri Hublala Yadav,
General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar Faridabad-121003 ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Manish Plaza-III
Sector-10, Dwarka,
New Delhi 110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology, Plot No. 76
Sector-3, HSIDC, IMI Manesar,
Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None.

For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed On:-03.11.2014

Government of India Ministry of Labour vide notification No. L.-42011/17/2014/IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of General Manager, M/s. International Centre for Automotive Technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Surender Kumar Jogi son of Shri Amar Singh Jogi Ex-workman w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer
नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ऑटोमोटिव प्रौद्योगिकी इंटरनेशनल सेंटर एवं दूसरों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 89/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/16/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 89/2014) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. International Centre for Automotive Technology & Others and their workman, which was received by the Central Government on 14/11/2014.

[No. L-42011/16/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No. 89 of 2014. Reference No. L-42011/16/2014-IR(DU) dated 05/05/2014

Shri Samay Singh,
Son of Shri Dhan Singh,
Ex-workman, C/o Shri Hublala Yadav,

General Secretary,
Mercantile Employees Association,
House No. 530,
Near Prem Public School,
Dayal Nagar,
P.O. Amar Nagar, Faridabad-121003 ...Workman

Versus

1. The Director,
M/s. Rakshak Securities (Pvt.) Ltd.
T-5, Plot No. 12, Manish Plaza III
Sector-10, Dwarka,
New Delhi-110075.
2. The General Manager,
M/s. International Centre for Automotive
Technology, Plot No. 76
Sector-3, HSIDC, IMT Manesar,
Gurgaon-122050 ...Respondents

Appearances:

For the Workman : None

For the Management : Sh. Ashutosh Verma and
Rajender Aneja Respondents

AWARD

Passed On : 03.11.2014

Government of India Ministry of Labour vide notification No L.-42011/16/2014/IR(DU) dated 08/05/2014 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

"Whether the action of the management of General Manager, M/s. International Centre for Automotive technology (ICAT), IMT Manesar, Gurgaon for giving appointment directly and later on deployed through contractor and thereafter termination of services of Shri Samay Singh son of Shri Dhan Singh Ex-workman, w.e.f. 28.05.2012 is just, fair and legal? If not, to what relief the workman is entitled to and from which date?"

2. Case repeatedly called. None appeared for the workman nor any claim statement has been filed. As per record already sufficient opportunity has been allowed to file claim statement. None appeared on behalf of the workman despite notice. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of Prosecution.

3. Reference is disposed off accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
03.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2971.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर, मदुरै के सहायक अधीक्षक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 01/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 17/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/261/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 2971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 01/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Asstt. Superintendent of Post Office, Madurai and their workman, which was received by the Central Government on 17/11/2014.

[No. L-40012/261/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 10th November, 2014

Present :

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 1/2002

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Asstt. Superintendent of Post Office, Postal Department, Madurai and their workman).

BETWEEN:

Sri R. Pounraj : 1st Party/Petitioner

AND

The Asstt. Superintendent of : 2nd Party/Respondent
Post Office City South
Sub-Division Madurai-625005

Appearance:

For the 1st Party/Petitioner : M/s. R. Malaichamy,
Advocate

For the 2nd Party/Respondent : Mr. M. Liagatali,
Advocate

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-40012/261/2001-IR (DU) dated 19.12.2001 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Assistant Superintendent of Post Office, Postal Department, Madurai in dismissing the services of Sri R. Pounraj (Pavunraj) from the post of Extra-Departmental Packer is justified and legal? If not, to what relief the concerned employee is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 1/2002 and issued notice to both sides. Both parties have entered appearance through the counsel and filed claim and counter statement respectively.

3. The averments in the Claim Statement filed in the petitioner in brief are these:

The petitioner was working as ED Packer under the Respondents. While he was working as such at the postal training central sub-office an article of charge was served on him alleging that on 30.09.1987 he had defrauded the value of Pollachi HVMO No. 4787 dated 28.09.1987 for ₹ 1583/- with the forged signature of the payee in the MO and in the intimation slip and thereby failed to maintain integrity and devotion to duty in contravention to Rule-17 of Posts & Telegraphs Extra-Departmental Agents (Conduct and Service) Rule, 1964. Opportunity was denied to the petitioner to defend his case. The enquiry authority and disciplinary authority failed to apply their minds to the evidence introduced in a just manner. The petitioner had discharged the work allotted to him. He was made a scapegoat utilizing his willingness to carry out the orders of the higher authority. The Sub-Post Master who was the paying official was responsible for the omission and commission, if any. The concerned MO was paid under an acquittance. It being a high value amount, only the Sub-Post Master was the authority to make the payment. There was no receipt for handing over the money order to the petitioner. The defense of the petitioner was not taken into consideration by the enquiring authority or the disciplinary authority. The petitioner was punished by dismissing him from service without any justification. The enquiry was conducted in total violation of principles of natural justice. An order may be passed directing the Respondents to reinstate the petitioner as ED Agent with all benefits including back wages and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The petitioner who was working as Extra-Departmental Packer at Postal Training Centre Sub-Post Office during the period from 12.12.1981 to 30.09.1991 was dismissed from service w.e.f 30.09.1991. The petitioner was charged with a statement of the imputations of misconduct and misbehavior and he was asked to submit his representation. He had denied the charges and an enquiry was ordered by appointing an Enquiry Officer and a Presenting Officer on behalf of the Disciplinary Authority. The petitioner was allowed to avail service of a Defense Assistant which he availed. The enquiring authority, on enquiry had recorded a finding that the charges against the petitioner are proved. The Disciplinary Authority who had agreed with the enquiring authority had awarded the punishment. The petitioner had filed an appeal with the appellate authority and the same was dismissed. The petitioner had then approached the Central Administrative Tribunal and the Tribunal had quashed the order of dismissal and ordered the Respondents to continue the disciplinary proceedings after serving a copy of the enquiry report to the petitioner. The order was complied with and the petitioner was reinstated in service and thereafter the proceedings were continued. The petitioner was again dismissed from service w.e.f. 30.09.1991. The enquiry against the petitioner was conducted in compliance with the principles of natural justice. The petitioner is not entitled to any relief.

5. The evidence in the case consists of documents marked as Ext.W1 to Ext.14. No oral evidence was adduced by either side. The counsels have endorsed that they have no oral evidence. The Respondents have not produced any documentary evidence also.

6. The points for consideration are:

- (i) "Whether the action of the Respondent in dismissing the petitioner from service is legal and justified?"
- (ii) What if any is the relief to which the petitioner is entitled?"

The points

7. The ID had a chequered career. The petitioner who was working as Extra Departmental Packer was alleged to have defrauded the value of an MO for ₹ 1583/- on 30.09.1987. After the incident was revealed article of charges have been served on the petitioner and an enquiry had been conducted. On the basis of the enquiry report, the punishment of dismissal from service was imposed on the petitioner w.e.f. 09.01.1989. However, on petitioner challenging the order before the Central Administrative Tribunal (CAT), the Tribunal quashed the order of

dismissal holding that a copy of the enquiry report had not been served on the petitioner. The Tribunal directed that the petitioner should be reinstated in service. The Respondents were allowed to continue the enquiry proceedings also. The Respondents proceeded further in compliance with the direction of the CAT and again entered a finding of guilt against the petitioner and dismissed him from service again w.e.f., 30.09.1991. It is against this order of dismissal this dispute is raised. This Tribunal had earlier passed an ex-parte order in favour of the petitioner on 06.10.2003. The Respondents have challenged this order before the High Court of Madras in WP No. 8981/2004. By order dated 25.06.2014 the Hon'ble High Court has set aside the award and remanded the matter for fresh disposal on merits and in accordance with law within a period of three months from the date of receipt of copy of the order, after giving opportunity to both the parties. The documents on the side of the petitioner were marked after this. The Respondents have not adduced any oral or documentary evidence.

8. It has been argued by the counsel for the Respondent that the ID is liable to be taken off the file for the very laches on the part of the petitioner. The counsel has relied upon the decision of the Apex Court in *UTTARANCHAL FOREST DEVELOPMENT CORPORATION AND ANOTHER VS. JABAR SINGH AND OTHERS* reported in 2007 2 SCC 112 to advance his argument. It was a case where there was a delay of 10 years in filing Writ Petition challenging the order of retrenchment of the workman. The Apex Court has held that the Writ Petition is liable to be dismissed on the ground of delay of 10 years. In the present case the order of dismissal was made w.e.f. 30.09.1991. The petitioner has not lifted his little finger until 2001 when he approached the Labour Commissioner raising the dispute. Thus he has raised the dispute only after a decade. He has not given any explanation for the laches on the part in raising the dispute. So far as the Respondent is concerned it was treated as a concluded matter long ago. Such unexplained laches on the part of the petitioner is something which could not be justified. The ID is liable to be dismissed for this reason itself.

9. Earlier my predecessor had granted an order in favour of the petitioner because the Respondents have failed to represent the matter. The petitioner has not produced any documents on his part at that time to help the Court in adjudicating the case. It was because the matter was not considered on merits, the Hon'ble High Court has restored the matter to file with direction to dispose the case on merits after giving opportunity to both sides to adduce evidence. After the matter came back to this Tribunal, the petitioner has produced documents marked as Ext.W1 to Ext.W14. However, on going through the documents I find that most of the documents which would be relevant for

adjudication are not produced by the petitioner even now. The petitioner was dismissed from service after conducting an enquiry. The Charge Memo served on the petitioner has been produced. The Enquiry Report also is produced. The Memorandum alongwith the Charge Memo has directed the petitioner to submit his written statement of defense for the same. However, the copy of the written statement that was given by him is not seen produced. On going through the enquiry report it is seen that an investigation was carried before the enquiry and statement of the relevant persons were recorded also. Those persons whose statements were recorded were examined as witnesses before the Enquiry Officer. It could be seen from the enquiry report that these witnesses have given evidence based on those statements. However, neither those statements nor the depositions of the witnesses in the enquiry proceedings which would be relevant for adjudication are seen produced by the petitioner. So this Tribunal is highly constrained in adjudicating the matter. The Respondent could not be found fault with in not able to produce the documents in respect of a matter which has been closed 10 years ago.

10. Even on considering the limited materials available, it could be seen that there is no justification for the claim of the petitioner that he was terminated from service wrongly and he is entitled to reinstatement. On going through the Charge Memo it could be seen that the charge against him is that while working as ED Packer at Postal Training Centre Sub Post Office, he had defrauded the value of a money order for ₹ 1583/- on 03.09.1987 by forging the signature of the payee in the money order and the intimation slip. The petitioner was sufficiently represented in the enquiry proceedings by his representative. The enquiry report shows that the Officer who investigated the matter has been examined as SW1 in the enquiry proceedings and the statements recorded by him during investigation were marked as Ext.SE7 to Ext.SE12. The one examined as SW2 was the Sub-Postmaster of the concerned Post Office. The enquiry report reveals that she has given evidence in accordance with the statement given by him to SW1 who conducted the investigation. She has stated during the examination that the practice in the Post Office was to entrust Money Orders to the petitioner who was the ED Packer and Kumaraswamy who was the EDDA. She has stated that this was the system prevailing in the Post Office and she could not have changed it. She has further stated that on 30.09.1987 also the MOs entrusted with Pavunraj and Kumaraswamy were all paid by them and that MO No. 4787 dated 28.09.1987 for ₹ 1583/- which is the subject matter of the dispute also was paid by the petitioner. SW3 who was the Postal Assistant has stated that she has prepared the intimation slip and it is the petitioner who has effected payment of the MOs. According to her, EDDA who was available in the office

was giving intimation to the trainees. Kumaraswamy who was the EDDA himself was examined as SW4. What he has stated is that he was not present at the Post Office when the MO payments were made on 30.09.1987. SW5 is Natarajan to whom the Money Order was entrusted. He has disowned the signatures appearing in the MO Voucher and Intimation Slip which are also seen produced before the Enquiry officer.

11. The argument that is advanced in the notes of arguments submitted on behalf of the petitioner is that normally it was the duty of Sub-Postmaster examined as SW2 to make window payment of Money Orders and it was not his duty at all. The argument seems to be that for this reason itself guilt could not be fastened on the petitioner. However, there is the specific evidence given by SW2 that as per the practice in the branch the petitioner who is the ED Packer and SW4 the EDDA used to make MO payments. The Enquiry Officer has referred to the statement of SW2 that she has handed over a total amount of ₹ 30,000/- pertaining to various MOs including the MO under dispute to the petitioner. It could also be seen from the discussion by the Enquiry Officer that the petitioner himself has admitted that he has received ₹ 30,000/- from SW2. According to SW2, every other MO other than the disputed one was paid by the petitioner on that day. The argument that is advanced on behalf of the petitioner is that though he received the amount, he had paid the amount to SW4 who was to make the payment. The counsel has also referred to the contradictory statement of SW3 and SW4 regarding the presence of SW4 at the office on the particular day. However, on going through the enquiry report I do not think there is much of any contradiction. What SW3 has stated is that SW4 was giving intimation to the trainees. What SW4 himself has stated is that he was not there at the time when MO payment was made and not that he was not in the office on the day at all. If it is the case of the petitioner that SW2 herself was to make window payment, his version that he has received ₹ 30,000/- for payment to SW4 does not make any sense. If his case is correct there would not have been any necessity for SW2 to pay the amount to the petitioner for entrustment with SW4. In any case if SW4 was to make the payment it is unlikely that it would have been entrusted with the petitioner rather than paying it directly to SW4. The enquiry report reveals that SW4 has deposed that all the MOs were paid by the petitioner himself. So it is unlikely that the MO under dispute alone would have been retained by SW2 for payment or that alone was entrusted with SW4. The Enquiry Officer has stated in his report that the signatures is appearing in the intimation slip and the MO forms are different. He has stated that if it was SW2 who was making payment she would have noticed this and would not have made payment at all. The entire evidence as could be deciphered from the enquiry report points to

the petitioner as the person who has been responsible for the incident. When SW5 the person who was to receive the amount has denied receipt, the proof against the petitioner is complete. Thus it could be seen that it was with sufficient proof that the Enquiry Officer has come to the conclusion that the petitioner is responsible for the incident.

12. Based on the decision of the Apex Court in UNION OF INDIA AND OTHERS VS. GYAN CHAND CHATTAR reported in 2009 12 SCC 78 the counsel for the petitioner has stated that no enquiry can be sustained on vague charges. However, I do not find anything vague in the Charge Memo served on the petitioner. The only incident which is the subject matter of the charge has been specifically described in the Charge Memo and the petitioner has undergone the enquiry fully aware of the charge against him. The finding of the Enquiry Officer could not be termed as perverse or unreasonable nor based on conjectures and surmises as is attempted to be made out by the counsel for the petitioner. I find that even on merits the petitioner has no case. The punishment also could not be considered as disproportionate.

13. In view of my discussion above, the petitioner is not entitled to any relief. The reference is answered against the petitioner.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	04.06.1988	Charge Memo of 1 st Respondent
Ex.W2	31.12.1988	IO's report a/w typed copy
Ex.W3	05.03.1991	Order in O.A. No. 738 of 1990
Ex.W4	29.04.1991	Appeal to 1 st Respondent
Ex.W5	30.09.1991	Order of 1 st Respondent
Ex.W6	07.04.1999	Representation
Ex.W7	10.06.1999	Order of PMG, Madurai
Ex.W8	06.10.2003	Award in ID 1 of 2002
Ex.W9	12.12.2003	Order of Labour Commissioner
Ex.W10	26.04.2004	Notice issued by Hon'ble HC, Madras
Ex.W11	16.06.2004	Cheque Xerox copy
Ex.W12	21.06.2014	Counter statement in WP No. 8981 of 2004
Ex.W13	25.06.2014	Order in WP No. 8981 of 2004
Ex.W14	20.08.2014	Notice of this Hon'ble Tribunal

On the Management's side

Ex.No. Date Description

N/A

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जैट एअरवेज लिमिटेड एवम् अन्य चार एअरलाईन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 68, 70, 71, 74, 75, 76, 77, 78 & 79/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-11012/42/2010-आई. आर. (सी-1);
सं. एल-11012/44/2010-आई. आर. (सी-1);
सं. एल-11012/50/2010-आई. आर. (सी-1);
सं. एल-11012/43/2010-आई. आर. (सी-1);
सं. एल-11012/46/2010-आई. आर. (सी-1);
सं. एल-11012/47/2010-आई. आर. (सी-1);
सं. एल-11012/48/2010-आई. आर. (सी-1);
सं. एल-11012/49/2010-आई. आर. (सी-1);
सं. एल-11012/51/2010-आई. आर. (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 18th November, 2014

S.O. 2972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 68, 70, 71, 74, 75, 76, 77, 78 & 79/2011 of the Cent.Govt.Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of M/s. Jet Airways Ltd & 4 other Airlines, and their workmen, received by the Central Government on 18/11/2014.

[No. L-11012/42/2010 - IR (CM-I);
No. L-11012/44/2010 - IR (CM-I);
No. L-11012/50/2010 - IR (CM-I);
No. L-11012/43/2010 - IR (CM-I);
No. L-11012/46/2010 - IR (CM-I);
No. L-11012/47/2010-IR (CM-I);
No. L-11012/48/2010- IR (CM-I);
No. L-11012/49/2010- IR (CM-I);
No. L-11012/51/2010- IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Monday, the 20th October, 2014

Present:

K. P. PRASANNA KUMARI, Presiding Officer

**Industrial Dispute Nos. 68, 70, 71, 74, 75, 76, 77, 78
and 79/2011**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/S. Jet Airways and Four Others and their workman)

BETWEEN:

- | | |
|------------------------|--------------------------|
| 1. Sri T. Suresh | Petitioner in ID 68/2011 |
| 2. Sri D. Daniel | Petitioner in ID 70/2011 |
| 3. Sri V. Mahesh Kumar | Petitioner in ID 71/2011 |
| 4. Sri D. Durai | Petitioner in ID 74/2011 |
| 5. Sri V. Jayan | Petitioner in ID 75/2011 |
| 6. Sri S. Suresh | Petitioner in ID 76/2011 |
| 7. Sri K. Sridhar | Petitioner in ID 77/2011 |
| 8. Sri P. Nithyanandam | Petitioner in ID 78/2011 |
| 9. K. Babu | Petitioner in ID 79/2011 |

AND

- | | |
|---|---|
| 1. M/s. Jet Airways Ltd.
SM Centre,
Andheri-Kurla Road
Andheri East
Mumbai-400059 | : 2 nd Party/1st
Respondent |
| 2. M/s. Sahara Airlines Ltd.
N.L.-70/329,
Mahipalpur Extension
New Delhi | : 2 nd Party/2nd
Respondent |
| 3. M/s. Jet Lite (India) Ltd.
Anna International
Terminal RM & D Department
Meenambakkam
Chennai-600027 | : 2 nd Party/3rd
Respondent |
| 4. M/s. Decor Drapes
Aviation Services
Ashvin Manor Airport Road
HAL New Borewell
Bangalore -560017 | : 2 nd Party/4th
Respondent |

- | | |
|--|---|
| 5. M/s. Sahara Parivar
Sahara Information &
Contact Point
PB No. 2, Gomathy Nagar
Lucknow-226010 | : 2 nd Party/5th
Respondent |
|--|---|

In All Industrial Disputes

S.No.	I.D. No.	Reference No. & Date
1.	68/2011	L-11012/42/2010-IR(CM-I) dated 05.08.2011
2.	70/2011	L-11012/44/2010-IR(CM-I) dated 16.08.2011
3.	71/2011	L-11012/50/2010-IR(CM-I) dated 16.08.2011
4.	74/2011	L-11012/43/2010-IR(CM-I) dated 16.08.2011
5.	75/2011	L-11012/46/2010-IR(CM-I) dated 16.08.2011
6.	76/2011	L-11012/47/2010-IR(CM-I) dated 16.08.2011
7.	77/2011	L-11012/48/2010-IR(CM-I) dated 16.08.2011
8.	78/2011	L-11012/49/2010-IR(CM-I) dated 16.08.2011
9.	79/2011	L-11012/51/2010-IR(CMI) dated 16.08.2011

Appearance :

- | | |
|------------------------------|---|
| For the 1st Party/Petitioner | : M/s. M. Muthu Pandian, Advocate |
| For the 2nd Party/Respondent | : M/s. Gupta & Ravi, Advocates |
| For the 2nd Party/Respondent | : Set Ex-parte |
| For the 2nd Party/Respondent | : M/s. Gupta & Ravi, Advocates |
| For the 2nd Party/Respondent | : M/s. Sai Raaj Associates, Advocates |
| For the 2nd Party/Respondent | : Sri V. Devraj (Authorized Representative) |

COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the order of references detailed above referred the IDs to the Industrial Tribunal, Madras for adjudication. The IDs were numbered as ID 68, 70, 71 and 74 to 79/2011 respectively.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

ID 68 of 2011

“Whether the action of the Management of the erstwhile M/s. Sahara Airlines Ltd., now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd., and M/s. Jetlite (India) Ltd. in denying employment to Sri T. Suresh, an Ex-Loader is legal and justified? To what the concerned workman is entitled to?”

ID 70 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V.D. Daniel, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 71 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V. Mahesh Kumar, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 74 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri D. Durai, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 75 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri V. Jayan, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 76 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri S. Suresh, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 77 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri K. Sridhar, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 78 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri P. Nityanandam, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

ID 79 of 2011

“Whether the action of the management of the erstwhile M/s. Sahara Airlines Ltd. now represented by Sahara India Pariwar, its erstwhile contractor viz. M/s. Decor Drapes Aviation Ltd. and M/s. Jet Lite (India) Ltd. in denying employment to Sri K. Babu, an Ex-Loader is legal and justified? To what relief the workman is entitled to?”

3. On receipt of notice, the petitioners and Respondents 1st, 3rd and 4th have appeared through their counsel and the Fifth Respondent through Authorized Representative and filed claim and counter statement respectively. The 2nd Respondent has remained ex-parte.

4. The averments in the Claim Statement in ID 68/2011 are as below:

The petitioner has received a telegram asking to join duty with Sahara Airlines Ltd., the Second Respondent on 26.06.2003 and he has joined duty. He has started working as Loader in the Cargo Division of the Second Respondent in Chennai. The petitioner used to work for 12 hours daily. The petitioner was paid salary of ₹ 3,000/-. During the last 3 months of his job he was getting salary of ₹ 3,500/-. The petitioner was expecting to be made permanent by the 2nd Respondent since he has worked for 4 years under the Respondent. During March 2007 there was a merger with Jet Airways Ltd. the First Respondent. The Second Respondent promised that the interests of the workers would be protected by obtaining job for them in the merger company. Even after, four years of the merger the petitioner has neither got the job nor the settlement amount as promised. There may be an order directing the Respondents to reinstate the petitioner in service with back wages and other consequential reliefs.

5. The First Respondent has filed Counter Statement contending as below:

The First Respondent is not a necessary party to the dispute. The First Respondent is not concerned with the reference made by the appropriate government. The petitioner was never an employee of the First Respondent. There was no master-servant relationship between the First Respondent and the petitioner. It is seen from the pleadings filed before the Conciliation Officer that the petitioner was under the employment of the Fourth Respondent who was the Contractor of erstwhile Sahara Airlines Ltd .. the Second Respondent. It is incorrect to state that there was merger of the second Respondent with the First Respondent. The petitioner is not entitled to any relief against the First Respondent.

6. The Second Respondent has remained ex-parte.

7. The Third Respondent has filed Counter Statement contending as below:

The reference before this Tribunal is incompetent and cannot be adjudicated upon. The reference proceeds on the basis that the petitioner was employed by Respondents 2 to 5. There cannot be a situation wherein Respondents 2 to 5 which are separate legal entities would become employer of the petitioner. The petitioner was never an employee of the third Respondent and there was no master and servant relationship between them at any time. The Fifth Respondent was originally carrying out airline business in the name and style of Sahara Airlines Ltd. which has been impleaded as Second Respondent. The shares held by the Fifth Respondent in the Second Respondent Company were subsequently acquired by the First Respondent and consequently the name of the Second Respondent was changed as Jetlite India Ltd., the third Respondent. The Third Respondent has no connection with the other Respondents, but is a distinct and separate legal entity. The only connection between the First and Third Respondents is that the First Respondent holds the entire shares of the Third Respondent Company and has the status of shareholder. The Second Respondent had awarded a contract to the Fourth Respondent for carrying out ancillary ground support services at the Chennai Airport by agreement dated 26.10.2002. The agreement seems to have been renewed from time to time. The Second respondent had a certificate of registration for contract labour and the Fourth Respondent had obtained license under the CLRA Act. As seen from the counter filed in the conciliation proceedings, the petitioner was in the employment of the Fourth Respondent. The contract with the Fourth Respondent was discontinued w.e.f. 05.09.2007. Consequent to the termination of the contract the third Respondent had no relationship with the Fourth Respondent. The salary for the petitioner was paid only

by the Fourth Respondent. The question of protecting the employment of the petitioner does not arise as he was employed by the Fourth Respondent only. No assurance was given that the job of the petitioner or others would be protected. The contract of the Fourth Respondent was terminated in September, 2007. The petitioner has raised the dispute only in July, 2009. If at all the petitioner has any claim it is to be made only against the Fourth Respondent. The petitioner is not entitled to any relief.

8. The Fourth Respondent has filed counter statement contending as below:

There is no claim in the petition that the petitioner was employed with the Fourth Respondent or that any termination of service was brought by the Fourth Respondent. Each of the Respondents are independent entities. The petitioner has sought reinstatement with the Respondents without specifying from which of the Respondents relief is sought. The claim of the petitioner is vague and is to be dismissed on this ground itself. The Fourth Respondent provides various support services to various Airlines in the form of ground handlings, cleaning of aircrafts, baggage handling, providing passenger facilitation for the airlines and also providing drivers for vehicles. The Bureau of Civil Aviation Security has approved the Fourth Respondent as a ground handling agency. Depending upon the requirement of airlines, the Fourth Respondent enters into contract or obtains order in the form of a tender for providing various services to the Airlines in the airport. A contract was entered into with the Second Respondent and this was renewed each year between 2003 to 2007 prior to the merger of the second Respondent with the First Respondent. The Fourth Respondent has the necessary license under the CLRA Act for employing contract labour. The petitioner is one such workman who was engaged by the Fourth Respondent on casual basis as part of fulfillment of its contractual obligations with the Second Respondent. By or about March 2007 the contract with the second Respondent ceased to exist consequent to the merger of the Second Respondent with the First Respondent. Casual loaders such as the petitioner ceased to be in the employment of the Fourth Respondent consequently. It is denied that the petitioner worked on a 12 hour basis. The work of the loaders in the Airport is fluctuating and is dependent on passenger traffic as well as number of flights. The petitioner did not seek employment with the Fourth Respondent at any time. Even as on this date the Fourth Respondent has certain ongoing contract in the Chennai Airport with other Airlines and is willing to provide casual employment to the petitioner as was earlier provided. It is open to the petitioner to report for work with the Fourth Respondent.

9. The Fifth Respondent has filed Counter Statement contending as below:

The correct name of the Fifth Respondent is Sahara India and not Sahara Parivar. The petitioner was not working with any of the establishments of Sahara India Group. There is no employer-employee relationship between the petitioner and the Fifth Respondent. There was no merger of Sahara Airlines Ltd. with Jet Airways Ltd. The management and ownership of Sahara Airlines Ltd. was taken over by Jet Airways Ltd. The claim of the petitioner that he was asked to join duty with Air Sahara is not true. The petitioner was deputed with the Fifth Respondent by the Fourth Respondent. It is incorrect to state that the petitioner was assured of a permanent job with the Second Respondent. The petitioner is not entitled to any relief.

10. The petitioners in ID 70/2011, 71/2011, 74/2011, 75/2011, 76/2011, 77/2011, 78/2011 and 79/2011, all claim to have been employed by the Second Respondent. The averments in the Claim Statement filed by all these petitioners are replicas of the Claim Statement filed by the petitioner in ID 68 of 2011. All the petitioners have claimed the relief of reinstatement with the Respondents. In all these disputes the respondents have filed Counter Statement repeating the contentions that are raised in the Counter Statements filed by them in ID 68 of 2011.

11. The Respondents in all the IDs being the same and the issue to be decided in all the IDs also being similar, the IDs were tried jointly.

12. At the initial stage the petitioners were represented by a lawyer and he was conducting the cases. Though the lawyer is still on record, at the later stage he was not available. The petitioner in ID 68/2011 was the one who was mainly representing the other petitioners and conducting their cases on behalf of other petitioners also. However, during his examination he has stated that he is not representing the petitioners in ID 70/2011, 74/2011 and 79/2011.

13. The evidence in the case consists of oral evidence of WW1 and MWs 1 to 3 and documentary evidence consisting of Exts.W1 to W7 and Exts.M1 to M27.

14. The point for consideration is:

“Whether the petitioners in the above Industrial Disputes are entitled to reinstatement as claimed?”

The Point

15. All the petitioners are claiming the relief of reinstatement by the Respondents. The case is that they have started to work with the Second Respondent on the basis of a telegram asking to join duty and they have been working for 12 hours on daily basis. They are said to have worked for almost 4 years as Loaders,

continuously. In the meanwhile, during March 2007, merger between the Second Respondent and the First Respondent is said to have taken place. It is stated in the Claim Statement that though there was an assurance from the Second Respondent's council that the workers grievance will be settled, they were not given any job nor paid any amount as promised.

16. On going through each of the Claim Statements it could be seen that the very nature of these Claim Statements is vagueness. No specific plea is raised by the petitioner on any aspect. Though it is stated in the Claim Statement that the petitioners have started to work on the basis of a telegram with the Second Respondent, it is not stated who has sent the telegram or who has engaged the petitioners as Loaders. The date on which they have started to work also is not specifically mentioned. It is not clear from the Claim Statement if the date given is the date on which the telegram was received or the date on which the petitioners started to work. Though it could be gathered from the Claim Statement that each of the petitioners are without any work, it could not be gathered on which date they were turned out from job and by whom. It is stated that there was a merger of the First Respondent and Second Respondent companies. However, it is not clear whether the petitioners have continued to work after the merger which is said to have taken place. The case of respondents other than the Fourth Respondent is that it was not a case of merger at all but the shares of the Fifth Respondent in the Second Respondent were taken over by the First Respondent and the name of the Second Respondent was changed and the Third Respondent Company was formed. It is the case of Respondents that each of the Respondents are different entities. However, there is no case in the Claim Statement who has employed the petitioner or who had terminated them, if at all done. Again, the petitioners do not specify against whom they are claiming the relief of reinstatement. If the Respondents are different entities, the petitioners could not have been under the employment of all of them at the same time. It is not clear from the Claim Statement who is to reinstate the respective petitioners.

17. All the Respondents other than the Fourth Respondent have contended that there is no employer - employee relationship between them and the respective petitioners. The Fourth Respondent has pointed out in the Counter Statement that there is no case for the petitioners that they were employed by the Fourth Respondent. At the same time the Fourth Respondent has stated in the Counter Statement that the petitioners were under its employment. According to this respondent it has entered into an agreement with the Second Respondent in the year 2002 for handling ground services. This was renewed every year and continued until 2007 when the Second Respondent became nonest and the Third Respondent Company was formed and had taken over the business.

18. Even though there is no specific plea in the Claim Statement, it is clear from the evidence of the petitioner in ID 68/2011 who has given evidence on behalf of the other contesting petitioners also as WW1 that all of them were employed by the Fourth Respondent only. He has admitted during his cross-examination that the Fourth Respondent was the Contractor of the Second Respondent and he was given employment by the Fourth Respondent, though he would claim that he was interviewed by the Second Respondent. He has stated that himself and all other petitioners have joined in their job in the same month and year. He has admitted that it was the Fourth Respondent who was paying salary to him and all others. He has admitted that they were covered under ESI and PF by the Fourth Respondent. It is also admitted that Rs 1, 2 and 3 did not issue any appointment order to them. Then he stated that they were working with the Fourth Respondent till 31.03.2007 and after that the Fourth Respondent did not give any employment to them. It could also be seen from the admission of WW1 that it was the Fourth Respondent who was supervising the job of the petitioners at the Airport According to WW1, while the petitioners were working in the Airport the Manager of the Fourth Respondent used to come to the Airport occasionally. However, there was a supervisor of the Fourth Respondent who used to come to the Airport daily. According to WW1, though Supervisor of the Fourth Respondent was there, work used to be allotted by the Supervisor of Sahara Airlines Ltd. However this could not be an indicator of direct employment of the petitioner by the 2nd Respondent. In the decision in International Airport Authority Vs. International Air Cargo Workers (dated 13.04.2009) the Apex Court has held that loading, unloading, etc. in the cargo complex of Airport will naturally be under the supervision of Airport Officers and it cannot be taken as evidence of direct employment. As is seen from the evidence of WW1, the petitioners had asked the Fourth Respondent for job after 31.03.2007 also. It has agreed to provide job if it got another contract also. Thus it could be seen from the evidence of WW1 itself that himself and other petitioners were employed by the Fourth Respondent and it was only with the Fourth Respondent as Contractor the petitioners were doing the job of Loader for the Second Respondent. MW1 examined on behalf of the Fifth Respondent and MW2 examined on behalf of Rs 1 and 3 have reiterated their case in the Counter Statements. There is also the evidence of MW3 on behalf of the Fourth Respondent asserting the case that all the petitioners were employed by it. The documents to show that the Fourth Respondent had the necessary license to take up the job and had entered into a contract with the Second Respondent are produced by the 3rd respondent. These

are Exts.M1 to 6, M8 and M9. The petitioners did not produce any document to show from which date they have started to work with the Second Respondent as claimed by them, what were the conditions of engagement, etc. The documents produced and marked as Ext.W1 to Ext.W5 are certificates issued by Air Sahara stating that they have participated in Aviation Security Awareness Programmer at Chennai. It is very much clear from the evidence of WW1 itself that Fourth Respondent was the employer of the petitioners and they were working as contract labourers under the Fourth Respondent.

19. There is no case in the Claim statement that the contract entered into between the Fourth and Second Respondent is sham and nominal and actually the Second Respondent is the employer. Even during evidence there was no attempt on the part of the petitioners to put forth the case that the contract is sham and nominal and was not acted upon. As already stated, there is not even a case in the Claim Statement that it is the Fourth Respondent who has employed the petitioners on the basis of a sham agreement. In spite of this, an attempt is seen made in the written argument submitted on behalf of the petitioners to show that the contract is a sham one. In the absence of any plea or any evidence this need not be considered at all.

20. The counsel for Respondents 2 and 3 has referred to the decision in GUJARAT ELECTRICITY BOARD THERMAL POWER STATION, GUJARAT VS. HIND MAZDOOR SABHA AND OTHERS reported in AIR 1995 SC 1893 which would have laid down that the individual contract workmen could not even raise the dispute in the absence of a plea that the contract is sham and nominal. Only when such a dispute is raised with such a contention by the concerned workmen the Industrial Adjudicator has to decide whether the contract is sham or genuine. It is only when the adjudicator comes to the conclusion that the contract is sham he will get jurisdiction to adjudicate the dispute. If the conclusion is that the contract is genuine the reference is to be rejected, the dispute being not an industrial dispute within the meaning of Section-2K of the Industrial Disputes Act. Again, in BHARAT HEAVY ELECTRICALS LTD. VS. ANIL AND OTHERS reported in JT 2006 (10) SC 297 also the Supreme Court has laid down the distinction between an individual dispute which is deemed to be an industrial dispute under Section-2A of the ID Act and an ID espoused by the Union in terms of Section-2(i) of the Act. It has been held that Section-2A does not cover every type of dispute between an individual workman and his employer, but it only enables the individual worker to raise the dispute notwithstanding that no other workman or union is party to the dispute and it applies only to disputes relating to discharge, dismissal, retrenchment or termination of service of an individual workman. When

the petitioners were not employed directly or terminated by the Second Respondent they could not seek any reinstatement with the Respondents 1 to 3 or 5 in the sense that they never engaged the petitioners. As already stated, there is no specific plea regarding this also.

21. Even in the Counter Statement the Fourth Respondent has stated that it is willing to provide employment to the petitioners since they have got another similar contract with another Aviation Company for the same kind of work. Even during the trial stage, some negotiation was made and the Fourth Respondent has agreed to provide work to the petitioners who are willing to work also. However, the petitioners have insisted that they are seeking a job with the First Respondent only by way of reinstatement for which they are not entitled in the circumstances discussed above. Therefore I find that none of the petitioners are entitled to any relief. However, I expect the 4th Respondent will extend a helping hand to the willing petitioners at this stage when their dreams of a job with the 1st Respondent is shattered by the disposal of this reference.

22. In view of my discussion above, all the references are answered against the petitioners. The awards are passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioners : W1/W1, Sri T. Suresh
MW1, Sri V. Devraj
For the 2nd Party/Respondents : MW2, Ms. A. Sadhana
MW3, Sri L. Pramod

Documents marked:

On the Petitioner's side:

Ex. No.	Date	Description
Ex.W1	29.07.2005	Copy of Certificate
Ex.W2	29.07.2013	Copy of Certificate
Ex.W3	29.07.2005	Copy of Certificate
Ex.W4	29.07.2005	Copy of Certificate
Ex.W5	29.07.2005	Copy of Certificate

On the Management's side:

Ex. No.	Date	Description
Ex.M1	27.07.2009	Petition filed by T. Suresh before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M2	27.07.2009	Petition filed by V. Mahesh Kumar before the Asstt. Commissioner of Labour (Central)-II, Chennai

Ex.	Date	Description
Ex.M3	27.07.2009	Petition filed by V. Jayan before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M4	27.07.2009	Petition filed by S. Suresh before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M5	27.07.2009	Petition filed by K. Sridhar before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M6	27.07.2009	Petition filed by N. Nithyanandam before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M7	01.10.2009	Counter filed by the 1 st Respondent M/s. Jet Airways (India) Ltd. before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M8	(Page 118a) (Page 119b) (Page 120c)	Salary statement for January 2007- (Air Sahara Loaders at And Chennai Airport) by Decor Drapes Aviation Services
Ex.M9	26.10.2002	Agreement entered into between 2 nd Respondent M/s. Sahara Airlines Ltd. and 4th Respondent M/s. Decor Drapes Aviation Services
Ex.M10	02.11.2002	Letter from 2 nd Respondent M/s. Sahara Airlines Ltd. to the 4th Respondent M/s. Decor Drapes Aviation Services
Ex.M11	—	Form V Certificate by the 2 nd Respondent M/s. Sahara Airlines Ltd.
Ex.M12	11.07.2003	Registration Certificate under the Contract Labour Central Rules issued to the 2 nd Respondent M/s. Sahara Airlines Ltd.

Ex.M13	12.03.2004	License issued by the Asstt. Commissioner of Labour (Central), Chennai to the 4th Respondent M/s. Sahara Airlines Ltd.	Ex.M24	27.07.2009	Petition filed by K. Babu before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M14	Various dates	License issued by the Asstt. Commissioner of Labour (Central), Chennai to the 4th Respondent M/s. Decor Drapes Aviation Ltd.	EX.M25	15.10.2009	Counter filed by the 3 rd Respondent M/s. Jet Lite (India) Ltd. before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M15	18.01.2006	Share Purchase Agreement	EX.M26	28.10.2009	Counter filed by the 4th Respondent M/s. Decor Drapes Aviation Services before the Asstt. Commissioner of Labour (Central)-II, Chennai with Annexures
Ex.M16	30.12.2006	Agreement entered into between 2 nd Respondent M/s. Sahara Airlines Ltd. and 4th Respondent M/s. Decor Drapes Aviation Services	EX.M27	30.10.2009	Counter filed by the 5th Respondent M/s. Sahara India Pariwar before the Asstt. Commissioner of Labour (Central)-II, Chennai
Ex.M17	13.01.2007	Form-3A submitted by the 4th Respondent M/s. Decor Drapes Aviation Services with the Employees Provident Fund Organization	<p>नई दिल्ली, 19 नवम्बर, 2014</p> <p>का.आ. 2973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबंध में निम्नलिखित के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 93/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।</p> <p>[सं. एल-14011/05/2000-आईआर (डीयू)]</p> <p>पी. के. वेणुगोपाल, डेस्क अधिकारी</p> <p>New Delhi, the 19th November, 2014</p> <p>S.O. 2973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/93/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 18/11/2014.</p> <p>[No.L-14011/05/2000-IR(DU)]</p> <p>P. K. VENUGOPAL, Desk Officer</p>		
Ex.M18	12.03.2007	Invoices raised for the month of January 2007 along with salary statement by the 4th Respondent M/s. Decor Drapes Aviation Services			
Ex.M19	01.04.2007	Amended Share Purchase Agreement			
Ex.M20	06.08.2007	Letter of termination of contract given by the 3rd Respondent M/s. Jet Lite (India) Ltd. to the 4th Respondent M/s. Decor Drapes Aviation Services			
Ex.M21	13.02.2008	No due certificate given by the 4th Respondent M/s. Decor Drapes Aviation Services to the 3rd Respondent M/s. Jet Lite (India) Ltd.			
Ex.M22	27.07.2009	Petition filed by VD Daniel before the Asstt. Commissioner of Labour (Central)-II, Chennai			
Ex.M23	27.07.2009	Petition filed by D. Durai before the Asstt. Commissioner of Labour (Central)-II, Chennai			

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/93/00

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Rajendra Dagaur,
C/o Shri S.A. Khan,
Mahamantri GCF Mazdoor Union,
Sheetalamai, 743/3/East Ghamapur,
Jabalpur

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARDPassed on this 24th day of September, 2014

1. As per letter dated 30-5-00 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-14011/5/2000/IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rakesh Kumar Raikwar and 20 other (as per list) is justified? If not, to what relief the workmen are entitled?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim through Rajendra Dagaur at Pages 4/1 to 4/3. Case of Ist party workman is that Shri Rajendra Dagaur and 32 others were appointed for work of safety of cycle stand from 1-3-91 by General Manager of IInd party No. 3. That as per order, 50 % employees were to be taken from dependent of retired employees and remaining 50 % dependent of working employees. The rates of cycle stand were fixed on 8-1-91. Those 33 employees were paid ₹ 450/- per month. They were to be paid bonus ₹ 380. They had submitted grievance before ALC for not paying minimum wages. IInd party got annoyed and discontinued from services showing them as employees of contractor Chourasia. That termination of their service without notice is in violation of Section 25-F of I.D. Act. On such ground, it is prayed that all 21 employees shown in the list with reference order be reinstated.

3. IInd party filed Written Statement at Pages 14/1 to 14/2. IInd party denied employer- employee relationship. Any of those workmen were not engaged by IInd party.

They were not appointed by management. Claim of workman relates to the contractor. The contractor was engaged to look after cycle stand. Management has nothing to do with it. The services of workman are not terminated by IInd party. They were engaged by contractors for looking after cycle stand, gate pass was issued for the purpose of security. On all such contentions, IInd party prayed for rejection of claim.

4. Additional Written Statement is filed after application for better particulars. It is submitted that manpower in factory is provided by Central Govt.. according to statutory recruitment order, its appointments are made by General Manager. The factory employees out of fear of safety of cycle , scooter, moped etc. approached management for safeguarding of their vehicles, Mukesh Trivedi Outsider was allowed contract of cycle stand. The charges were fixed per cycle- ₹ 2/-, moped- ₹ 3/-, Scooter- ₹ 4/- quarterly and annual rates are also shown. IInd party submits that workman were not engaged by management. There was no employer employee relationship. That services of workmen were not terminated by management. Workmen are not entitled to any relief as prayed.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) “Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of Shri Rakesh Kumar Raikwar and 20 other (as per list) is justified? | Services of concerned workmen were not terminated by IInd party. |
| (ii) If not, what relief the workman is entitled to?” | Workmen are not entitled to any relief. |

REASONS

6. Workmen Ist party challenging termination of their service for violation of Section 25-F. Management denied employer-employee relationship. Workmen were not engaged by management. They were employees of contractor for safeguarding cycle stand. Identical affidavit of witness of Shri Wilson, Jagdish Khare, Rakesh Kumar, Badri Mishra are filed. In their affidavit, all those workmen have stated that they were appointed for working at bicycle stand. The charges of cycle stand were deducted from salaries of the employees. Workmen were paid ₹ 250/-, 350/-, 450/- per month. Bonus of ₹ 380/- was paid to them. Their services were terminated without notice. Affidavit of all workmen as well pleading of Ist party are not clear who had appointed them. Wilson was not cross-examined. Jagdish Prasad in his cross-examination says his name

was registered in Employment Exchange. Post was not advertised. He has not submitted application. Notice was displayed on board. He was appointed as waterman. He was paid ₹ 250/- per month. Bonus ₹ 380/- was paid to him. His service book was not prepared. He was assured to be regularized after 3 ½ years. Rakesh Kumar is not cross-examined. Rajendra Dagaar died during pendency. His LRs are brought on record. Badrivishal in his cross-examination says he had not submitted application for appointment, notice was displayed on notice board. Appointment letter is produced on record which is not on the record. his service book was not prepared. He was paid ₹ 250/- per month, 350/- in the next year. Any of the workmen have not produced appointment letters. Anand Swami filed affidavit of his evidence similar to above workman. In his cross-examination, he was unable to tell who issued appointment letter to him, he could not tell name of officer who issued appointment letter. He was appointed in cycle stand, the vacancies were published. He not submitted application in writing that he alongwith Jagdish, Rajendra, Pappu was interviewed. His medical examination was not conducted. Police has come for his verification. In his further cross-examination, he claimed ignorance whether Shri Mukesh was contractor of cycle stand. The monthly, quarterly, annual charges for cycle stand were fixed. He claims ignorance what claim is submitted by Union. It is submitted orally by Rakesh in individual capacity. The dispute is not raised by Union. Dhanraj in his cross-examination says that he was working for 8 ½ years on say of his father he reported on duty. He was appointed by Shri Negi Labour Officer. Appointment order was not received by him. The vehicles kept at stand, the charges were recovered. Tokens used to be deposited in the evening.

7. Evidence of management's witness Shri N.Narendra is supporting contentions of management that workmen were not appointed by IInd party. They were engaged by contractor Mukesh Trivedi. The charges for cycle stand were recovered from salary of the workmen. Evidence in cross-examination shows cycle stand in GCF is from 1991. Prior to it, the vehicles were kept in shed and there was no security guard. He claims ignorance who made appointments during 91 to 99 for employees at cycle stand. That the employees at cycle stand were to be appointed 50 % dependents of ex-employees and remaining 50 % from outside. The evidence on record is not clear that appointment of all the workmen was made by management of IInd party. Employer employee relationship is not established. There is no evidence that services of those workmen were terminated by IInd party. Though Ist party produced documents, no care is taken to prove those documents by adducing evidence.

8. Learned counsel for management Shri A.K.shashi relies on bunch of citations on ratio held on the point of

burden of proof lies on the workman to prove continuous working for more than 240 days.

In case of General manager (OSD) Bengal Nagpur Cotton Mills, Rajnandgaon versus Bharat Lal and another reported in 2011-I-LLJ-321(SC). Their Lordship held finding by Industrial Court that person concerned direct employee of cotton mills and not of contractor with it. Lord ship held not sustainable as twin tests for determining question of direct employment or through contractor held not satisfied."

In present case, employees are claiming to be directly appointed and not appointed by contractor. However evidence on record shows the employer employee relationship with IInd party is not established. Therefore ratio in above case cannot be applied to this case. Contractor is not impleaded as party in the present case. The workmen are not entitled to relief claimed by him. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The workmen are neither engaged nor terminated by IInd party.
- (2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, गन कैरिज फैक्ट्री, जबलपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/49/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-14012/05/1996-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/49/1997) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-14012/05/1996-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/49/97**

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ganesh Prasad Choudhary,
S/Shri R.Choudhary,
House No. 191,
Rajendr Nagar, Baba Tola,
Nai Basti, Jabalpur

...Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur

...Management

AWARDPassed on this 23rd day of September, 2014

1. As per letter dated 4-3-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-14012/5/96-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Gun Carriage Factory, Jabalpur is justified in terminating the services of Shri Ganesh Prasad Chaudhary? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim at Pages 3/1 to 3/9. Case of workman is that he was appointed as messenger on compassionate ground on 8-1-79 after death of his father. He was sincerely working for 4 years in establishment of IInd party. His service record was unblemished. Services of Ist party workman were terminated on 14-10-83. Its legality is challenged by workman on the ground that the enquiry conducted against him is illegal. He was granted opportunity for his defence. Principles of natural justice were violated. Chargesheet was served on him on 7-1-83. The allegations were false. Report was also submitted against him to police with false allegations. That he had not committed any misconduct alleged in chargesheet. That one Dukodi was not employee of IInd party had succeeded to enter factory premises with help of gate keeper. Workman was falsely involved for helping him to enter the factory premises. The allegations were also made about misappropriation of amount. Workman had requested management to supply relevant documents. Workman was not supplied documents on his request. Workman was prosecuted in criminal case. Workman had

requested to stay Enquiry Proceedings. He had challenged order of rejecting documents filing appeal. Workman had prayed for supplying enquiry report. His request was not considered. Enquiry was proceeded exparte against him. Workman has pleaded extensive reasons that enquiry conducted against him was vitiated on various grounds. As enquiry conducted against workman is found illegal vide order dated 14-9-01 by my predecessor, the details given by workman with this regard is not narrated.

3. Workman submits that he was issued show-cause notice without considering his contentions order of dismissal was passed by Disciplinary Authority dated 14-10-83. The termination of his services on the basis of illegal enquiry is liable to be set-aside. The appeal and review filed by workman were rejected without proper appreciation. The findings of Enquiry Officer are perverse.

4. Workman submits that he was prosecuted in criminal case 989/85. He was released on probation for a period of one year by Addnl.CGM, Jabalpur. That as per circular dated 30-8-71, a person convicted by court of law and released under the probation of offenders act are not liable to be removed or dismissed. Workman further submits that he is not gainfully employed. He could not get job any where. His family is suffering from hardship after his dismissal from service. On such ground, workman prays for his reinstatement with back wages.

5. IInd party filed Written Statement at pages 5/1 to 5/3. Claim of workman is denied outright. Management submits that workman was employed as messenger from 8-1-79 on compassionate grounds. On 1-12-1982 at 8.15 AM, Shri Dukodi Prasad resident of Nai basti, Jabalpur was caught within factory premises. Identity Card No. 2882/NIE was found in his possession. It was disclosed during investigation that said Identity Card was given to Shri Dukodi Prasad by workman after receiving ₹ 600/-. Workman had commenced to secure job for him in the factory. Shri Dukodi Prasad was entering factory premises alongwith workman. On 30-11-82, workman paid amount ₹ 151.22 to Dukodi Prasad and obtained his thumb impression in attendance register in security office. Workman was suspended from 2-12-1982. He was served with chargesheet on 7-3-83. FIR was lodged in police. That workman was informed about Enquiry proceedings but he failed to appear. Consequently enquiry was proceeded exparte. After receiving findings of Enquiry officer that charges against workman were proved, workman was removed from service. Appeal and review were rejected on 7-11-84, 22-12-86 respectively.

6. IInd party reiterates that enquiry was conducted against workman as per rules following principles of natural justice. If enquiry is found vitiated on any ground, management be permitted to prove misconduct in Court. The misconduct committed by workman is of serious

nature. Workman should not be allowed reinstatement. On such grounds, IInd party prays for rejection of claim.

7. Enquiry conducted against workman was found illegal by my predecessor by order dated 14-9-01. Management was permitted to prove misconduct in Court. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the management proves misconduct alleged against workman? | In Negative |
| (ii) whether punishment of removal form service imposed against workman is proper and legal? | In Negative |
| (iii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

8. After enquiry was found illegal by my predecessor, management was permitted to prove charges against workman. Management filed affidavit of Shri Pillai. However said witness wasnot made available for cross-examination. Management filed affidavit of witness Manmohan Singh, Asstt. Works Manager. He was cross-examined on commission. To be precise, management's witness says on 1-12-82 when he came on duty at 8.30 AM, Mr. Dilip Singh, Chargeman/ Security officer reported him that Dukodi Prasad was found in Security office with tiffin career. When he was questioned about his identity he had stated that he was working in Security office since last few months. Shri Dukodi Prasad was not in the strength of Security office nor he was seen working in security office. Shri Dilip Singh felt that either he was mentally unbalanced and belonged to some other section or there was some thing fishy about Dukodi Prasad. When he was produced before him on interrogation, Dukodi prasad said he was working in Security office since 1 ½ months. On checking witness found identity card token no. 2882/NIE tied at his button of his shirt. During interrogation he had disclosed that he was transferred along with Ganesh prasad in security office. When Ganesh prasad workman on interrogation disclosed that Shri Dukodi prasad was his brother in law, his sister was married to him. He had first time came inside factory brought his tiffin career. LDC Shri P.C.Jain had disclosed that on 30-11-82, while he was disbursing monthly salary Ganesh Prasad approached him for change of ₹ 100/- for giving some money to Shri Dukodi Prasad. On interrogation Shri Dukodi and Ganesh Prasad disclosed that workman had received ₹ 600/- from Shri Dukodi Prasad for securing employment. Since past two months,

workman had arranged Token No. 2882/NIE for Dukodi Prasad etc. On 30-11-82, workman had paid amount of ₹ 151.20. that workman Shri Ganesh Prasad concluded that he had to bring Shri Dukodi since past two months.

9. Management witness in his cross-examination says in 1982, he was working as foreman. He was dealing with work of security foreman of factory. He was not knowing employees assigned duties in the shift. In 1982, employees assigned duties in shift were given token. He was not maintaining record of token. It was maintained by other office. He admits that the information about token was not available with gate keeper. The employees given token numbers were allowed entry for their shift duties. When document No. ½, 3, 4 chargesheet were referred to the witness, he admits that Shri Dukodi Prasad was management's witness. Witness of management was unable to tell whether Token No. 2882 was given to workman by Shri Dukodi Prasad. Management's witness admits that chargesheet was issued to workman on the token number found with Dukodi Prasad. That witness had not seen Shri Dukodi Prasad enter in the factory. Witness said that he was acquainted with Shri Dukodi Prasad. The token number is lost. Matter is report to concerned section by the employee. Witness was unable to tell to whom Token No. 2882/NIE was issued.

10. As per evidence of management's witness Manmohan Singh, Dilip Singh had given information about Shri Dukodi Prasad found in Security Office. Said Dilip Singh is not examined Security Person who found Shri Dukodi Prasad are not examined. Even token no. found with Shri Dukodi Prasad is not produced. Shri Dukodi Prasad is not examined as witness in the case. The documents about recording confession or statement of workman are not produced by witness of the management. The evidence of management's witness on affidavit is submitted in 2011. The incident is of 1-12-1982 the argument were advanced by learned counsel for management Shri A.K.Shashi that age of witness is above 80 years minor infirmities are natural. However the material witnesses are not examined. The documents regarding interrogation of Shri Dukodi Prasad and confession of workman are not produced. The evidence of management's witness is not cogent to place reliance.

11. Workman filed affidavit of his evidence denying charges against him. In his cross-examination, workman says he is not acquainted with shri Dukodi Prasad. He denies that for more than one month before December 1982, he was taking Dukodi Prasad to the factory premises but he has no enmity with management's witness Manmohan Singh. Workman denied to have paid ₹ 600/- to Shri Dukodi Prasad.

12. From evidence of management's witness, the misconduct alleged against workman cannot be proved. He record of Enquiry proceedings was not produced,

secondly enquiry was held illegal. For above reasons, I record my finding in Point No.1 in Negative.

13. Point No.2- in view of my finding in Point No.1, charges against workman are not proved from evidence of management's witness punishment of dismissal imposed against workman cannot be sustained. The question arises whether workman is entitled for reinstatement with backwages. In statement of claim, workman has pleaded that in Criminal case, he was released on probation of Offenders Act copy of judgment by Criminal Court is produced Annexure B at Page 1/51. Shri Dukodi Prasad and workman were accused No.1,2 in criminal case. Both were convicted under Section 448, 303 of IPC. However there being first offender were released on probation.

14. Learned counsel for workman Shri Puranik submits that release on probation of Offenders act is not a bar for continuance in service. Chargesheet is issued to workman and disciplinary enquiry is conducted against him. The charge proved in criminal case is based on same facts and chargesheet issued to workman by Disciplinary Authority. The conviction of accused for offence under Section 448 of IPC is certainly a misconduct. Learned counsel for workman submits that workman be reinstated with back wages as charges are not proved by management. In present case, though charges against workman are not proved from evidence before this Tribunal, workman was convicted by Criminal court for offence.

15. On the point of reinstatement, learned counsel for management Shri A.K.Shashi submits that management has lost confidence in workman and his reinstatement may not be allowed. In support of above argument reliance is placed in case of Shriram Refrigeration Industries versus Industrial Tribunal cum Addl. Labour Court, Hyderabad and others reported in 2002(9)SCC 708. Their Lordship dealing with reinstatement/ compensation in lieu thereof only 3 years of service left and he was drawing ₹ 3045 per month, their Lordship in such circumstances allowed compensation ₹ 2,25,000/- in lieu of reinstatement. In present case, workman is convicted for offence under Section 403, 448 IPC by Criminal Court but he was released on probation. Said Offence was based on identical facts. Considering workman was appointed on compassionate ground in 8-1-79, very few year of service of workman must be left. Considering above aspects, instead of reinstatement compensation ₹ 3 Lakhs to workman would be appropriate relief. Accordingly I record my finding in Point No.2.

16. In the result, award is passed as under:-

(1) The action of the management of Gun Carriage Factory, Jabalpur in terminating the services of

Shri Ganesh Prasad Chaudhary is not legal and proper. Order of dismissal of workman dated 14-10-83 is set-aside.

(2) Instead of reinstatement, IInd party is directed to pay compensation ₹ 3 Lakhs to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाकघर, डाकघर, बिलासपुर के अधीक्षक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 130/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/115/1995-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R 130/1996) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Superintendent of Post Office, Post Office, Bilaspur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/115/1995-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/130/96

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Jagdish Prasad Gupta,
R/o Village Sakari,
Mungeli Road,
Post Sakari,
Distt. Bilaspur (MP)

...Workman

Versus

Superintendent of Post Office,
Post Office,
Bilaspur.

...Management

AWARD

Passed on this 24th day of September 2014

1. As per letter dated 30-5-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/115/95-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 2/1 to 2/5. Case of Ist party workman is that he was engaged as casual workman on daily wages under IInd party No.4 on 16-5-87. He was granted minimum of pay scale of vehicle driver 950-1500 from 16-5-88. As per memorandum dated 6-6-88, he was continuously working from 16-5-87 to 23-1-90 he was eligible for regularization under the scheme framed by department as per directions given by Hon'ble Supreme Court. That his services were terminated without notice on 23-1-90 in controversion of Section 25-F of I.D. Act. Workman represented against termination order on 30-1-90, 12-2-90. He was re-engaged for different period from 8-3-90 to 8-2-94. Workman reiterates that his services are terminated on 23-1-90 in violation of Section 25-F of I.D.Act. He was not served notice. Retrenchment compensation was not paid. On such ground, he prayed for reinstatement.

3. IInd party filed Written Statement at Page 7/1 to 7/3. IInd party submits that workman was engaged on daily wages from 9-5-87 to 15-5-88. Again intermittently from 16-5-88 to 28-1-90 on account of execution of Bharatlal Driver. That the order engaging workman in daily wages provided his appointment till appointment of regular candidate. The discontinuation of workman is covered under Section 2(oo)(bb) of I.D.Act. After regular Driver, Shri B.K.Gaur was posted from Bilaspur Division, services of workman were not required. Therefore his services were dispensed with. Termination of service in violation of Section 25-F is denied. On such ground, IInd party prays for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

5. Workman is challenging termination of his service from 23-1-90 for violation of Section 25-F of I.D. Act. Management had denied material contentions of workman. Workman filed affidavit of his evidence. Workman stated that he was engaged on daily wages on minimum scale ₹ 950-1500 from 16-2-88. He was continuously working till 23-1-90. Thereafter workman was re-engaged intermittently on daily wages till 8-2-94. In his cross-examination, workman has admitted his reengagement after order of his discontinuation from 23-1-90. Period of his engagement is stated in para-9 of his cross-examination. It is clear from his evidence that workman was re-engaged after termination of his services. He has given order of his discontinuation of his order dated 23-1-90. Document Exhibit W-1 appointment letter is clear that workman was appointed temporarily. His services were liable to be terminated. Workman was given understanding. Exhibit W-2 shows that documents of workman were called, Exhibit W-3 shows Shri R. K. Gond Driver was declared surplus in Jabalpur division and allotted to Bilaspur division and posted as Driver to Inspection Vehicle of Bilaspur Division. Thus Shri Gond surplus was appointed as regular employee. It was reason for termination of workman.

6. Evidence of management witness Shri B.L.Patel is on point that workman Jagdish was engaged as stop gap arrangement as casual labour on resignation submitted by Driver Bharatlal. His appointment was not made as per statutory rules. Shri R.K.Gond surplus employee was appointed therefore services of workmen were dispensed. In his cross-examination, management witness admits that before termination of service, showcause notice was served on workman, retrenchment compensation was not paid to him as he was working on daily wages. As appointment of workman was temporary, regular driver was appointed. His discontinuation is covered by Section 2(oo)(bb) of I.D.Act. therefore compliance of Section 25-F of I.D.Act is not required. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Post Offices, Bilaspur Division, Bilaspur in terminating the services of Shri Jagdish Prasad Gupta is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिवीजनल इंजीनियर, दूरसंचार परियोजना, रायपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर 18/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/46/1998-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R 18/1999) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Divisional Engineer, Telecom Project, Raipur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/46/1998-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/18/99

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Indro S/o Mummaru Gada,
Vill Ghatkachhar, PO Signora,
Tehsil Saraipali, Raipur.

...Workman

Versus

Divisional Engineer,
Telecom Project, 7,
Sahakari Marg II, Choubey Colony,
Raipur

...Management

AWARD

Passed on this 16th day of October 2014

1. As per letter dated 30-11-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/46/98/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of Ist party workman is that he was in service of IInd party. He was appointed as employee by IInd party in 1986. He was discontinued from 16-2-88. He had completed 240 days continuous service. He was not served with notice, retrenchment compensation was not paid to him. His services are terminated in violation of Section 25-F of I.D. Act which amounts to victimization and unfair labour practice on part of IInd party. Workman prays for his reinstatement with back wages.

3. Written statement is filed at page 6/1 to 6/2 by IInd party. It is denied that workman was engaged by IInd party management DE Telecom Project, Raipur. According to IInd party workman was engaged by erstwhile DE Coaxial cable project, Raipur. There was no question of workman working more than 240 days in any of the year. There was no employer employee relationship. Workman was not terminated by IInd party. The petitioners in original application 17/91 before CAT, Jabalpur were different. Applicant cannot take advantage of order passed in said proceedings. On such ground, IInd party prays for rejection of claim.

4. Workman filed rejoinder at Page 7/1 to 7/2 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|----------------|
| (i) Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and justified? | In Affirmative |
|---|----------------|

- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to any relief.

REASONS

6. Workman is challenging termination of his services for violation of Section 25-F of I.D.Act. However he failed to adduce evidence in support of his claim. Ordersheet dated 25-5-06 shows that management was served with notice. Case was fixed for cross-examination of workman by management. The right to cross-examine workman was closed. However order was passed on 2-2-06 that case shall proceed exparte. Affidavit of evidence of workman is not seen. Management filed affidavit of evidence of witness Shri R.R.Yadav. In his cross-examination, management's witness says workman was engaged as casual labour, he claims ignorance about documents maintained about working of workman. That workman had not completed 240 days continuous service. In absence of evidence of workman, it is difficult to uphold that workman had completed 240 days continuous service and termination of his services without notice without payment of retrenchment compensation cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the services of Shri Indro S/o Shri Mummaru Gada, Ex-Mazdoor is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, सरकारी अफीम और उपक्षार निर्माण के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/03/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/168/1999-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/03/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the

employers in relation to the management of the General Manager, Government Opium & Alkaloid Works and their workman, which was received by the Central Government on 18/11/2014.

[No. L-42012/168/1999-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/3/00

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Prakash
S/o Bapulal Sanghvi,
107, Dhan Mandi, Ratlam (MP) ...Workman

Versus

General Manager,
Govt. Opium & Alkaloid Works,
Neemuch ...Management

AWARD

Passed on this 15th day of October 2014

1. As per letter dated 21-12-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/168/99/IR(DU). The dispute under reference relates to:

“Whether the action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi is legal and justified? If not, to what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 3/1 to 3/8. Case of workman is that he was working as time keeper with IInd party No.2 at Neemuch from 7-10-79 after due selection. IInd party had published advertisement in newspaper dated 16-9-78 inviting application for two post of time keeper in pay scale of 216-400. One post was reserved for ST, one for Open Category. Workman had submitted application for post of time keeper. He was selected. After his selection, he was offered appointment by General Manager vide letter dated 29-9-79. Workman accepted said offer and joined service on 7-10-79. On 7-5-80, he was served with order of termination w.e.f. 5-5-90 without assigning any reason. He was not served showcause notice. The services were terminated without notice. Retrenchment compensation was not paid to him. Provisions of Section 25-F, N of

I.D.Act were violated. The termination of his service is in violation of Article 311 of the constitution.

3. Workman has narrated detail litigation which he resorted. He challenged termination before Labour Court Mandisor, W.P in High Court MP bench, Indore. That Industrial Court had granted stay to order of termination. He again joined service on 29-10-81 to work till 18-12-81. His stay was vacated. Workman has filed petition before CAT, Jabalpur. As per directions passed by High Court, CAT, Jabalpur conciliation proceedings were filed before ALC, the dispute has been referred. Workman submits that he was appointed after following selection process, advertisement. The post was not reserved in the advertisement. The post on which he was appointed was of open category. There was one post. There cannot be 100 % reservation. The appointment of workman was on vacant post. He was selected after competition. His services were terminated by lower authority. He was served notice under Section 25-F. Pay in lieu of notice was not paid to him. He was also paid retrenchment compensation. That principles of last come first go was not followed. Termination of his service is violatory of Article 16(1) of the constitution. Workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at Page 6/1 to 6/11. Case of IInd party is that 2 post of time keeper were sanctioned in IInd party. Those posts were filled on temporary basis from candidates out of panel drawn by selection board in 1979. After sometime one of the candidates appointed Nand Kishore resigned from post of time keeper on family ground. His resignation was accepted by authorities. The vacancy caused was for SC. Workman from open category was available. Name of workman was at Sl. No.3 of panel. To fill up vacancies of time keeper, workman was temporarily appointed on adhoc basis as per order dated 29-9-79. Workman had accepted conditions in appointment order and joined duties. The vacancy arose on resignation submitted by Shri Nandkishore was published in newspaper on 15-10-79 on completion of recruitment process and availability of suitable candidate, the services of workman were terminated.

5. IInd party has also narrated details of the litigation resorted by the workman, termination order was challenged before Jabalpur. Review was filed in Industrial Court. WP filed in High Court, matters were remanded and again Labour Court decided the matter observing that Labour court has no jurisdiction. Remedy under Section 10 of I.D.Act was appropriate. IInd party submits that dispute is raised after delay of 18 years. Workman had chosen wrong forum including petition filed before CAT. Orders were passed that remedy to workman could be resorted under Section 10 of I.D.Act. workman was temporarily appointed as per conditions in appointment

order, his services were terminated. Workman is not entitled to protection under Section 25-F of I.D.Act. Action of the management is legal.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---|
| (i) whether the action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any reliefs. |

REASONS

7. Ist party workman approached courts for retention against order of his termination. However the proceedings were not filed before Competent Court. The disputes has been raised after lapse of 18 years only for the reason that workman was prosecuting proceedings before other forums. Workman died during pendency on 11-1-2001. His L Rs. are brought on record. Affidavit of evidence is filed by his widow Raj Kumar Sanvi and other LR's in support of application for substituting LR's. However no evidence is adduced on behalf of deceased workman or his LR's. The evidence of workman is closed on 1-6-2010. Management also failed to adduce evidence. Evidence of management is closed on 6-5-2014. The parties donot participate in reference proceeding. It is matter of pain that the deceased workman did not get any fruits during his life time for the reasons that he prosecuted proceedings before wrong forums. For absence of evidence in support of claim of workman, I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the General Manager, Govt. Opium and Alkaloid Works in terminating the services of Shri Prakash Sanghavi is proper and legal.
- (2) Workman is not entitled to any relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2978.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिवीजनल इंजीनियर, दूरसंचार परियोजना, रायपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/214/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/19/1998-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. CGIT/LC/R/214/1998) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Divisional Engineer, Telecom Project, Raipur and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/19/1998-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/214/98

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Banshi Gopal,
S/o Shri Godno,
Village Ghatkachhar,
PO Sighora, Tehsil Saraipali,
Raipur

...Workman

Versus

Divisional Engineer,
Telecom Project,
7, Sahakari Marg-II,
Choubey Colony, Raipur

...Management

AWARD

Passed on this 16th day of October, 2014

1. As per letter dated 10-9-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-40012/19/98-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the service of Shri Banshi Gopal son of Shri Godno Ex. Mazdoor is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/4. Case of workman is that he was appointed as mazdoor against permanent post in 1986 by IInd party. His services were discontinued from 16-2-88. He completed 240 days continuous service in 1986-87. He raised dispute before ALC. It is reiterated that he was not served notice of termination, retrenchment compensation was not paid to him. Termination of his service is in violation of Section 25. On such ground he prays for his reinstatement with back wages.

3. IInd party filed Written Statement at page 6/1 to 6/2 denying claim of Ist party workman. It is submitted that workman was not appointed by management, he was not engaged by DE Telecom Project, Raipur. Workman was engaged by DE Coaxial Copper Project Raipur which was wound up on 31-3-91. It is further submitted that workman was engaged on muster roll on daily basis, retention period of muster roll is 5 years therefore it is difficult to comment about engagement and discontinuation of workman. The dispute is raised after 12 months for reinstatement by management. Workman was engaged purely on temporary basis. There was no question of termination of his service. Workman is not entitled to one month's notice or pay in lieu of notice. Violation of Section 25-F of I.D.Act is denied. It is further submitted that in O.A.71/91, 96/90 CAT Jabalpur order pertains to the applicants. Workman is not entitled to get any benefit.

4. Ist party filed rejoinder at page 7/1 to 7/2 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---|
| (i) Whether the action of the management of Divisional Engineer, Telecom Project, Raipur (MP) in terminating the service of Shri Banshi Gopal Son of Shri Godno Ex. Mazdoor is legal and justified? | Workman is neither engaged or terminated by IInd party. |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. Workman is challenging termination of his service for violation of section 25-F of I.D.Act. He filed affidavit in support of his claim submitting that he was engaged in 1986 as mazdoor. He was continuously working till 31-12-90. He completed 240 days continuous service.

Workman in his cross-examination says he was working in co-axial project of Telecom Department. Appointment letter was not given to him. He denies suggestion that he not completed 240 days continuous service. Management filed affidavit of witness Shri R.R.Yadav. Witness of management has covered contentions in Written Statement that he was engaged by East DE Coaxial Project. The witness of management was not cross-examined. Workman in his cross-examination has admitted that he was working in coaxial project. As such employee employer relationship is not established between parties. Termination of services of workman with IInd party is not established. Accordingly I record my finding in Point No.1.

7. **Point No.2—** In view of my finding in Point No.1 employer employee relationship between parties is not established. Termination of service of workman is also established. Therefore workman is not entitled to any relief. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:-

(1) Employer employee relationship and termination of Ist party workman by management is not established.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2979.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दूरसंचार जिला अभियंता, टीडीई राजगढ़ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एलसी/आर/17/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/277/2001-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. CGIT/LC/R/17/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Telecom District Engineer, TDE Rajgarh and their workman, which was received by the Central Government on 18/11/2014.

[No. L-40012/277/2001-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/17/2002

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Gopal,
S/o Shri Mansingh
R/o Vill: Moya,
Tehsil Biaora, Rajgarh ...Workman

Versus

Telecom District Engineer,
O/o TDE Rajgarh,
At Biaora, Rajgarh ...Management

AWARD

Passed on this 24th day of September, 2014

1. As per letter dated 3-1-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-40012/277/2001-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Engineer, Rajgarh in terminating the services of Shri Gopal S/o Shri Mansingh w.e.f. January, 97 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 1 to ½. Case of workman is that he was working at telephone Office, District Rajgarh from 1987 to 1992 as Mazdoor Category I on muster roll. After muster roll were discontinued, his wages were paid under vouchers. His service were orally terminated without notice. On such ground, he prays for reinstatement.

3. IInd party filed Written Statement. IInd party submits that workman was individually engaged on muster roll of management of IInd party. He not completed 240 days continuous service. In June 1991, workman worked for 30 days, July-31 days. The services of workman were not required. Workman is not entitled for reinstatement or regularization.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the In Affirmative management of Telecom District Engineer, Rajgarh in terminating the

services of Shri Gopal
S/o Shri Mansingh w.e.f.
January, 97 is justified?

- (ii) If not, what relief the Workman is not
workman is entitled to?" entitled to any relief.

REASONS

5. Though workman raised dispute and filed statement of claim, he failed to participate in reference proceeding. Workman has not adduced evidence in support of his claim. Reference is proceeded exparte on 30-1-2012.

6. Management filed affidavit of witness Shri Ramjani Khan. Management witness submits that workman has not completed 240 days service. Workman worked for 30 days in June, 91 and 31 days in July 91. His evidence remained unchallenged. I find no reason to disbelieve evidence of management. There is no evidence of workman to substantiate his claim. Therefore I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

(1) The action of the management of Telecom District Engineer, Rajgarh in terminating the services of Shri Gopal S/o Shri Mansingh w.e.f. January, 97 is legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2980.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 213/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-41015/03/1998-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 213/1999) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the Central Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41015/03/1998-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/213/1999

PRESIDING OFFICER: SHRI R. B. PATLE

Shri Anil Kumar Sharma,
C/o Shri Tulsi Singh Thakur,
Behind SI Quarters,
Police Station Ghamapur,
Kanchghar, Jabalpur ...Workman

Versus

Divisional Railway Manager,
Central Railway,
Bhopal (MP) ...Management

AWARD

Passed on this 13th day of September, 2014

1. As per letter dated 19-5-1999 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41015/03/1998-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19.01.1987 is justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that he was monthly rated Khalasi in scale 250-940 working in IInd party No.4. That IInd party No.2 merged in I/d party no.3 under control of IInd party No. 1. workman submits that he was continuously working from 1985 to 1987. He had acquired status of temporary employee. That he could not be terminated without compliance of Rule-9 of Discipline Appeal Rules 1968. That he was medically examined and found fit for regular job. IInd party No.4 issued notice dated 3-1-87. His services were terminated from 19-1-87 in violation of Section 25-F of I.D. Act, Rule-9 Discipline Appeal Rules 1968. Workman submits that termination of his service is illegal. Workman approached ALC Bhopal for redressal. Workman submits that termination of his service is also void for violation of Article 311 of the constitution. That only after directions issued by Hon'ble High Court in writ petition 4560/98, the reference has been made. On such ground, workman is praying for reinstatement with back wages.

3. IInd party submitted Written Statement at Page 8/1 to 8/3. It is submitted that workman had worked as monthly rated casual labor. He fraudulently entered in

Railway service producing casual labour service card in 1987. Notice in prescribed form was issued to workman by Competent Authority. Workman did not reply to the notice instead workman did not turn up for duties. Rule-9 of Discipline Appeal Rules 1968 is not attracted in the matter of workman. IInd party submits that at relevant time, workman was working under PWI(B) at Bhusawal division and not Bhopal Division. That notice was served upon workman. He did not submit any explanation to the notice. Workman had no defence to submit. Workman kept silence for long time. Workman was happy with his fraudulent act. Ist party workman secured appointment on basis of fake casual labour service card. He had absconded himself not giving reply to the notice. On such ground, IInd party prayed for rejection of the claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19-1-87 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. Workman has challenged termination of his service for violation of Section 25-F of I.D. Act, Article 311 of constitution of India. He submits that no enquiry was conducted against him against Rule 9 of Discipline Rule 1968. Above contentions of workman are denied. IInd party did not deny workman was working with IInd party No. 4 as monthly rated Khalasi. IInd party has pleaded that workman had secured employment producing bogus casual labour service card. Notice was issued to him. No reply was given instead workman remained absconding. Affidavit of evidence is filed by workman reiterating his contentions in statement of claim that he was working as casual labour with IInd party from 1985 to 1987. The services were terminated in violation of section 25-F, Article 311 of constitution. No enquiry was conducted against him. In his cross-examination, workman denies that card submitted by him was bogus. He denies receipt of notice during absconding period. That he had not left his job. Rather he was discontinued by IInd part. In his further cross-examination, workman says he was working as temporary employee. He was receiving wages for his working days. Subsequently he received notice. He had not given reply to the notice. Suggestion of IInd party

that card produced by him was bogus is denied. The documents produced by workman Exhibit W-1 shows that workman had approached for redressal before CAT Jabalpur. Workman was given liberty to approach before Tribunal. Exhibit W-2 is copy of order of reference. The reference was directed only after direction issued by Hon'ble High Court in Writ Petition. IInd party filed affidavit of evidence of Shri Bharat Bhushan Sharma. The witness of management says that Service Card submitted by workman was found bogus. Workman was given notice. No reply is filed by workman, he had absconded. In his cross-examination, management's witness says in 1984, he was not working at Satna. He brought original documents but any documents are not produced. No notice was given to workman in that regard. The documents about workman was absconding are not available in the office. In his further cross-examination, management's witness says service record of workman was found bogus as name of workman was not found in LHTI register. That showcause notice was not issued to workman after receiving report. He was not Enquiry Officer. When service card was issued to workman, he was not posted at Satna, rather he never worked at Railway Division, Satna.

6. Management witness Shri Ashok Kashvi in his affidavit of evidence says service card produced by workman was bogus as per order dated 8-1-87. In his cross-examination, management's witness says in 1987, he was not posted in Railway Electrification Project. He received attendance register from PWI Harda. Railway Electrification Project had ended. The witness of management was working in section. When service card was issued to workman he was not in Railway Service. Management's witness further says termination order was issued to workman. Any other proceeding initiated against workman is not available. Termination dated 3-1-87 was issued by (PWI was not known to him. That had not seen signature of PWI arher at any time. Document Exhibit M-1 is letter dated 8-1-87 issued by PWI informing that service cards of Ist party workman Anil Kumar Sharma and others were not issued by his office. In Exhibit W-2 attendance register workman is shown absent from duty and ultimately terminated .

7. Service card alleged to have been submitted by Ist party workman is not produced on record, even showcause notice issued to workman is not produced on record. management of IInd party is alleging that service card produced by workman was found fake/ bogus. Absolutely no evidence is adduced by IInd party as to who had found service card submitted by workman was bogus. In absence of such evidence, contentions of management cannot be accepted. Services of Ist party workman are terminated on ground that service card produced by him was bogus. In that regard, contentions are not substantiated by evidence. Both witnesses of

management were not working at relevant time. They have not seen service card produced by workman. They have not decided that the service card was bogus. Therefore the action of termination of services of workman cannot be said legal. For above reasons, I record my finding in Point No.1 in Negative.

8. Point No.2- In view of my finding in Point No.1 termination of services of workman is not legal, question arises whether workman is entitled for reinstatement with full back wages. Workman was terminated from service long back in 1988. His evidence is silent how he is maintaining himself and his family. No evidence is also adduced by IInd party about 1st party workman is in gainful employment. Considering above aspects, workman cannot be allowed reinstatement with full back wages. In my considered view, reinstatement with 20 % back wages would be appropriate. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The action of the management of Central Railway Bhopal in terminating the services of Shri Anil Kumar Sharma, Khalasi S/o Shri Gopi Sharma w.e.f. 19-1-87 is illegal.
- (2) IInd party is directed to reinstate workman with continuity of service and 20 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2981.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 198/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/345/(ए)/1997-आईआर (बी.-I)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2981.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 198/98) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/345/(A)/1997-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/198/98

PRESIDING OFFICER: SHRIR. B. PATLE

Dy. General Secretary,
State Bank of India workers Union,
Bhopal Circle, C/o SBI,
Jaistambh Chowk,
Raipur (MP) ...Workman/Union

Versus

Asstt. General Manager,
Region-V, State Bank of India,
Zonal Office, Shanka Nagar,
Raipur ...Management

AWARD

Passed on this 28th day of October 2014

1. As per letter dated 20-8-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/345(A)/97-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of India in removing Shri G. K. Gurdwan, Ex-Cashier-cum-clerk from Bank's services with effect from 25-6-96 vide order no. Area/5/C/111 dated 25-6-96 is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to parties. Statement of claim is submitted by General Secretary of Bank employees Union. Case of 1st party Union is that it is registered under Trade Union Act 1926. Shri G.K. Gurdwan- employee was its member. Chargesheet was issued by IInd party on 1-8-95 to above said employee. Employee was its member. Chargesheet was issued by IInd party on 1-8-95 to above said employee. Enquiry was illegally conducted against him. Workman was not supplied copies of documents. Employee was unable to submit his clear reply. Enquiry was conducted illegally. Finding of illegal enquiry based on contradictory evidence. The punishment of dismissal was imposed. Order of dismissal is illegal. The appeal preferred by workman against order of dismissal was rejected. The dismissal order is illegal. On such ground, Union prays for reinstatement of workman with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 7/16. Case of IInd party is that employee Shri G. K. Gurdwan was

posted as cashier cum clerk at Akaltara branch of SBI on 22-2-95. One Rajaram Sharma handed over amount of ₹ 43,200/- to workman for depositing the said amount in SB Account No. 3240. That workman did not deposit said amount. He made fictitious credit entries in SB Account of Shri Rajaram Sharma. The entries were also made in ledger book. Chargesheet was issued to workman. Workman had admitted receipt of amount from Shri Rajaram Sharma. That defence of the employee was that he forgot to deposit amount in his account. Preliminary enquiry was conducted by Manager, State Bank of India, Region-V, Nagpur. It was found that entries were taken in Bank pass book of Shri Rajaram by the employee, amount was not deposited in his account. After issuing chargesheet, enquiry was conducted. Full opportunity for defence of the delinquent was given. The documents demanded by workman were submitted to him. After receiving report of Enquiry Officer, its copy was served on delinquent employee vide letter dated 10-4-96, employee submitted his reply. Considering gravity of the charge proved after finding of Enquiry Officer, punishment of dismissal from service was imposed. Appeal preferred by employee was dismissed. IInd party submits that punishment of dismissal against workman is proper and legal. It is reiterated that the enquiry is conducted against workman as per rules. order of dismissal does not suffer from any kind of illegality. Claim of workman is not tenable.

4. As per order dated 2-8-2013, enquiry conducted against workman is found legal and proper. Case was fixed for evidence on other issues. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---|
| (i) Whether the misconduct alleged against workman is proved from evidence In Enquiry proceedings? | In Affirmative |
| (ii) whether punishment of removal from service imposed against workman is legal and proper? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | 1st party is not entitled to any relief |

REASONS

5. As stated above, enquiry is found legal and proper. The question remains for decision whether charges alleged against workman are proved from evidence in Enquiry Proceedings? Workman has not adduced any evidence on other issues. The statement of management's witness Rajaram at Page 27 of the Enquiry Proceedings shows that he had handed over amount of ₹ 42,450 to the employee for depositing in SB Account 3240. Amount was not

deposited in his account. When he had gone to Bank on 27-3-95 for withdrawal of ₹ 46,300/-, he was told that amount was not in his account. The amount of ₹ 42,450/- handed over to Shri G. K. Gurudwan was not deposited in his account. The evidence of Shri Rajaram Sharma is recorded in detail. In Enquiry proceedings, his evidence on material points is not shattered by cross-examination. The evidence of management's witness Rajaram Sharma proves charge alleged against workman. For above reasons, I record my finding in Point No.1 in Affirmative.

6. Point No.2 the punishment of removal from service is imposed against workman. After receiving findings of Enquiry officer, that charges against workman are proved enquiry conducted against workman is found proper and legal. Charges against workman relates to receiving amount of ₹ 42,450/- for depositing in account of Shri Rajaram Sharma. Workman did not deposit said amount. However he had taken entry of said amount in pass book and ledger. The proved misconduct of workman is of serious nature. Conduct of employee working as clerk cum cashier receiving amount for depositing in SB Account of Rajaram and not depositing it in his account for taking entries of said amount in pass book and Bank ledger is serious misconduct. The punishment of removal from service imposed by IInd party does not call for interference. At the same time, I am also mentioning that the Union/workman has not adduced any evidence on other issues. Therefore also there is no reason to interfere with the order of removal from service. For above reasons, I record my finding in Point No.2 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of State Bank of India in removing Shri G.K.Gurdwan, Ex-Cashier cum clerk from Bank's services with effect from 25-6-96 vide order no. Area/5/C/111 dated 25-6-96 is legal and proper.
- (2) Union/workman is not entitled to any relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर मर्जड एज भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 153/02) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/452/2001-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 153/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of Indore Merged as State Bank of India and their workman, received by the Central Government on 18/11/2014.

[No. L-12012/452/2001-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/153/02

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain

...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Merged as State Bank of India
Local Head Office
Hoshangabad Road,
Bhopal

...Management

AWARD

Passed on this 15th day of October 2014

1. As per letter dated 7-11-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/452/2001-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11-12-98 and not regularizing him is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1 to 2/7. Case of workman is that he was working as messenger from 2-5-91 as per oral order of IInd party. He was working with devotion. That on 17-11-87, settlement

was arrived between management of the Banks and all India State Bank of India Staff Corporation. For absorption of temporary messengers working for 30/70 days during the period 1-7-75 to 18-8-95, the applications of eligible candidates were called. Workman submits that he had worked for 84 days from 14-8-91 as per above settlement. He is eligible for absorption. On his application, he was called for interview on 19-2-97. He was continuously working on the post of messenger. He was paid salary from IInd party. On 11-12-98 Sr. Manager Shri S. K. Arya, called him and served order of his termination regretting that he was working since 1991. His services are terminated without paying retrenchment compensation. Workman submits that he raised dispute before ALC Bhopal and dispute has been referred.

3. Workman further submits that he was paid bonus under Section 8 of Bonus Act for the period 2-5-91 to 11-12-90. Workman submits that for 1675 working days, he was paid bonus of ₹ 4314/- on 8-8-01. That he worked more than 300 days in every year and total for 2100 days. Workman had worked for 84 days from 14-8-91. He claims to be eligible for absorption as per settlement dated 17-11-87. Workman was paid wages ₹ 22 to 48 per day. His services are terminated illegally. Instead of regularization of services IInd party is punishable under Section 29 of I.D. Act. Workman prays for his reinstatement with back wages.

4. IInd party filed Written Statement at page 9/1 to 9/13. IInd party submits that Shri Ram Nagwanshi dismissed employee of State Bank of Indore is not competent to represent the workman. Workman had worked for 84 days from May 91 to August 91. Thereafter workman was engaged purely as daily rated contractual employee. During 1992 to 1998, workman worked for 1684 days. He was paid retrenchment compensation ₹ 6480/- in compliance of Section 25-F of I.D. Act. It is reiterated that workman was engaged purely on contract basis. His duties were ending at end of the day. His discontinuation is not covered as retrenchment under Section 2(o) of I.D. Act. It is squarely covered under Section 2(o)(bb) of I.D. Act.

5. IInd party further submits that elaborate conciliation proceeding is involved out of agreement entered between Bank Staff Federation. It provides opportunity for absorption of temporary casual workers for permanent appointment. The agreements are entered with staff association on 17-11-87, 16-7-88, 28-10-88, 9-9-91 as per above agreement, employees were called for interview. He was discontinued after 1-7-75 to 31-7-80. In consultation with management and staff federation, said period was extended till 14-8-91. He was daily wage employees. They were given chance for appointment as permanent employees. As per terms of bipartite settlement management have only awarded temporary services from

empanelled candidates. Ist party employee was continued to casual vacancies as per the settlement. The panel was kept alive till March 1997. It is reiterated that workman was paid retrenchment compensation ₹ 6480/-. All adverse contentions of workman have been denied. that workman worked only for 89 days till cut off dated 14-8-91. Workman was at low level of selected candidates. He could not be absorbed in permanent service. IInd party had advertised in newspaper calling applications in prescribed format as per the settlements. Workman had submitted application on 7-9-91 for permanent absorption. He was called for interview on 19-4-97. Workman was not found suitable for permanent employment. Therefore workman could not be absorbed.

6. IInd party further submits that as per settlement the panel was required to be kept alive till March 1997 so that opportunity for permanent employment can be given to such candidates against available vacancies. The related settlement dated 30-7-96, 20-2-97 between management and staff federation 1st party workman discontinued in retrenchment compensation. Violation of Section 25-F, G of I.D.Act is denied. It is reiterated that workman was discontinued paying retrenchment compensation. Workman was found not suitable for absorption. On all such contentions, IInd party prays for rejection of claim.

7. Workman filed rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--------------------|
| (i) Whether the action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11.12.1998 and not regularizing him is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

9. The terms of reference includes legality of termination of workman and denial of regularization. There is no dispute between parties that workman had worked for 84 days till cut off date i.e. 11-8-91. The pleadings of parties shows that retrenchment compensation ₹ 6480/- was paid to the workman. The agreement between Bank management and staff federation are not disputed. The copy of agreement dated 26.07.88 is produced at Exhibit M-1. Relevant clause at Page 3 provides - temporary

employees should have worked in the bank on regular scale wage part time or full time between 1-7-75 and 31-7-88 and put in the above stipulated period of temporary service. The aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at any one or more offices. Clause VI of the agreement regarding existing waiting list provides the waiting list prepared after completion of interviews of the temporary employees in subordinate cadre who have completed 90 days of service and above as on 31st October 1984 has not yet been exhausted, it will be valid upto 31-7-88 and vacancies arising up should be filled from this panel. Exhibit M-2 Circular No. 32 was forwarded along with the letter. Bipartite agreement dated 27-10-88, 9-1-99 guidelines issued for implementation. Category "C" provides that those who have completed minimum 30 days aggregate after 1-7-75 or minimum of 78 days aggregate temporary service in any continuous block of 36 calendar months during 1-7-75 to 31-8-88 are eligible for chance for permanent appointment in Bank service. Workman in present case as per plea was not working in Bank till 1988. Workman had worked 84 days prior to cut off date 11-8-91. Exhibit M-4 settlement dated 9-1-91 provides that clause I of settlement dated 17-11-87 was modified and substituted in the year 1992 to 1994. Reading of Exhibit M-4 at Page 51 shows that looking to the enormity of the problem and in view of the currency period of panels now being extended upto 1994, clause (d) provides if the panels of temporary employees in a circle are exhausted before December 1994, the panels of daily wagers available there at will become operative and will be used for filling up the remaining vacancies and those arising upto December 1996. Exhibit M-5 is copy of settlement dated 25-2-97. It clearly provide that settlement dated 17-11-87, 16-7-88, 27-10-88, 9-1-91 30-6-96 be complied. The eligibility of working period during 1975 to 88 is not modified in any of the bipartite settlements. Exhibit M-6 is copy of select list of 1997 name of workman is not included. Keeping above aspects in view I proceed to deal with evidence on record. workman in his affidavit of evidence has stated that he was working as messenger on daily wages from 2-5-91. He was paid wages ₹ 20/- per day. He was working till 14-8-91. That as per settlement employee working for 30-70 days are eligible for absorption. He received interview call on 19-2-97. That he completed more than 240 days continuous service from 2-5-91 to 11-12-98. His services were terminated without notice. Retrenchment compensation was not paid. He was paid bonus ₹ 4314/- on 8-8-01. After termination of his services, he was not called for work. Workman in his cross-examination says he was working in Bank from 2-5-91 to December 98. He was doing work of depositing form receipts. He was serving drinking water. He admits retrenchment compensation was paid to him. He was called for interview.

10. Management's witness Smt. Nirupa Joshi supported contentions of management in Written Statement that earlier employees working during the period 1-7-75 to 31-7-88 were considered for absorption. Said period was extended till 14-8-91. Workman was called for interview on 19-2-97. He had worked for 84 days till 14-8-91. He was not selected for absorption. Workman was paid retrenchment compensation ₹ 6480 as per section 25-F of I.D.Act. she says contract about engagement of workman is not produced on record. she was unable to tell what process was followed before engaging workman. She claims ignorance whether his name was sponsored through Employment Exchange. She claims ignorance whether test or interview was taken before workman was engaged. Workman was not given appointment letter. Muster roll was not available. Workman was paid one months retrenchment compensation before his termination. List of retrenched employees was not displayed on notice board.

Section 25-G of I.D.Act provides-

"Where any workman in an industrial establishment, who is a citizen of India is to be retrenched and he belongs to a particular category of workmen in that establishment in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman."

Rule 77 provide-

Employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment atleast seven days before the actual date of retrenchment."

11. The evidence of management's witness clearly shows Section 25-G & Rule 77 are not followed. List of daily wage employees were not displayed on notice board. Therefore retrenchment of workman is illegal for violation of above provisions.

12. Learned counsel for IInd party Shri V.P . Khare relied on ratio held in

Case of State of Karnataka and others versus M. L. Kesari and others reported in 2010((SCC 247) . their Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I.D. Act.

Next reliance is placed in ratio held in

Case of Allahabad Bank versus Shri Prem Singh reported in 11 (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wage stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wage had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

13. Shri Ram Nagwanshi Union representative submitted copies of award in R/180100, 4/07, 105/02,27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence.

14. The evidence clearly shows that workman was not working prior to 31-7-88 rather he worked for 84 days between 2-5-91 to 14-8-91. Said working period is not covered as eligibility period as per settlement of 1987 discussed above. However for violation of Section 25-G, Rule 77, retrenchment of workman is illegal. For above reasons, I record my finding in Point No.1 in Negative.

15. Point No.2- In view of my finding in Point No.1, retrenchment of workman is illegal for violation of Section 25-G, Rule 77, question arises whether workman is entitled for reinstatement/regularization of his services. Workman was not appointed following recruitment process. He is not eligible for absorption as per settlement of 1987, 88, 91 etc. as he did not work during period of eligibility, therefore workman is not entitled to benefit for absorption of his service. However the retrenchment of workman is in violation of Section 25-G, Rule 77. Workman was paid retrenchment compensation ₹ 6480/-. One month's pay in lieu of notice was paid to workman. Considering above aspects as retrenchment of workman is found illegal for violation of Rule- 77, appropriate compensation to workman would meet the ends of justice. Considering length of working of workman from May 91 to 11-12-98,

compensation ₹ 2 Lakhs would be appropriate. Accordingly I record my finding in Point No. 2.

16. In the result, award is passed as under:-

- (1) The action of the management of Assistant General Manager, State Bank of India, Bhopal in terminating the services of Shri Mukesh Nathulal Vatre S/o Nathulal Vatre w.e.f. 11-12-98 and not regularizing him is not proper and legal.
- (2) IInd party is directed to pay compensation ₹ 2 Lakhs to the workman.

Amount as per above order shall be paid to workman within two months from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2983.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 84/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/480/2001-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 84/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/480/2001-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/84/02

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary, ...Workman/Union
Daily wages Bank Employees
Association,
9, Sanwer Road, Ujjain (MP)

Versus

Asstt. General Manager,
State Bank of India, Zonal Office,
Hamidia Road, Bhopal (MP) ...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 28-5-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act., 1947 as per Notification No.L-12012/480/2001-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Statement of claim is filed by workman at Page 2/4 to 2/11. Case of Ist party workman is that he was orally engaged by Branch Manager andelwal at Main branch of SBI from 20-10-81 to 15-2-82 as messenger. He worked with devotion. His name was included in panel prepared for absorption. He was called for interview on 17-8-85. As per settlement dated 17-11-87 between management and Union, he is entitled for absorption as permanent employee. He had worked for 70 days during 1-7-75 to 31-7-88. On 11-8-91, he was called in Head office of the Bank at Indore and informed that his name was received from Bhopal. He further submits that since 12-8-91, he worked more than 240 days without any grievance. He was sent on deputation with luggage by General Manager on 3-8-96. Again he was sent with luggage by Asstt. General Manager, Bhopal. He suffered illness. He was treated by Dr. Subhash Sharma. Workman reiterates that he worked more than 240 days every year since 12-8-91 till May 1997, he was terminated without notice, retrenchment compensation was not paid to him. His representations were not responded. Junior employees Mukesh and others were paid retrenchment compensation. Workman was not paid retrenchment compensation.

3. Workman submits that he had submitted representations for payment of bonus. He had worked continuously till 31-5-97. He was paid bonus of ₹ 2665 assuming his working days were 1235. Infact he worked 1614 days. He was paid wages for all those working days. Workman reiterates that his services were terminated without notice without paying retrenchment compensation. Principles of last come first go was not followed. His termination is in violation of Section 25-F,

G of I.D.Act. He was not re-employed. Bank employed other persons after his termination. Thus IInd party violated Section 25-F of ID.Act. On such ground he prays for reinstatement/regularization.

4. IInd party submitted Written Statement at page 6/1 to 6/11. Objection is raised that so called General Secretary of Union Ram Nagwanshi dismissed employee is not competent to represent workman. Workman was employed purely on daily wages as messenger. He worked for 83 days during 20-10-81 to 15-2-82. Dispute raised by workman is referred for adjudication.

5. IInd party submits that workman was casually engaged on daily wages. His discontinuation is not covered as retrenchment under Section 2(oo) rather is engaged on daily wages. His service came to end at every day at end of the day. His discontinuation is covered under Section 2(oo) (bb) of I.D.Act. IInd party is given details of working days of workman in Para-5. It is contented that preceding discontinuation of workman he had not completed 240 days service. He is not entitled to protection under Section 25-F of I.D.Act. temporary employees working during the period 1-7-75 to 31-7-88 were eligible for conciliation. IInd party had given advertisement alling applications in prescribed proformas from daily rated employees/ casual workers. Workman had submitted his application claiming work for 83 days. Workman could not be absorbed by the Bank as his working days before cut off date 14-8-91 were at low level.

6. It is further submitted that Ist party employee was appointed purely on daily wages as messenger. That he was called for interview as per the settlement on 12-8-89. Workman had not completed 240 days continuous service during any of the calendar year. Workman was paid bonus ₹ 2665/- on 23-8-01. Workman was engaged for work of hammal. He cannot be said employee of the Bank. Violation of Section 25-F,G, H is denied. All other adverse contentions of workman are denied. IInd party prayed for rejection of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

8. Before dealing with evidence of parties, documentary evidence needs to be considered. Exhibit W -1 is certificate issued by Bank about 83 working days of workman during 20-10-81 to 15-2-80. Exhibit W -2 is letter calling workman for interview for post of messenger. Exhibit W-3 is notice calling explanations of temporary casual employees for absorption as permanent employees as per settlement dated 31-7-88. The said document is clear that employees working 70 days during 36 calendar months between 1-7-75 to 31-7-88. Exhibit W-4 is letter for calling interview dated 10-9-99. Exhibit W-5 is also letter for interview issued in 1997. Exhibit W-6 is letter issued by Dy. General manager referring that the workman was claiming 83 days working during the cut off period. Exhibit W - 7 is copy of rejoinder submitted before ALC. Exhibit W-8 is application submitted by workman stating that he was working from 12-8-91 to 10-8-98. He was paid ₹ 48/- per day. Exhibit W-9 is copy of cheque for payment of bonus amount ₹ 2665. Exhibit W-10 is letter issued by Shri Ram Nagwanshi Union representative requesting documents regarding payment of bonus. Exhibit W-11 is letter given by Dy.General Manager about claim of Ist party workman. He was not paid retrenchment compensation. Exhibit W-2 is copy of application submitted before ALC, Bhopal relating to denial of bonus payment of ₹ 2665/- Exhibit W-13 is letter issued by Asstt. General Manager to the branch offices. Said letter finds reference that for the candidates in select list, there was no specific period of their working. Exhibit W-14 is letter issued by Asstt. General Manager dated 12-12-02. The details of monthwise and year wise temporary daily wages service in each case was called. Exhibit W-15 is letter issued by Chief Manager shows working days of workman as shown III Written Statement. Exhibit W-17 to 29 shows details of working days and payment of wages to workman.

9. Workman has filed affidavit of his evidence that he worked for 83 days during 12-10-81 to 15-2-82. On 17-8-85, he was called for interview for absorption. Again he was called for interview on 12-8-89. He was engaged as messenger from 12-8-91. He was continuously working till June 97. He worked more than 240 days during each of the year. In his cross-examination, workman says he was called for interview as per settlement between Union. He was interviewed as per Exhibit W-4. He had asked payment of bonus as per Exhibit W-4. He had asked payment of bonus as per Exhibit W-4. Bonus was paid as per Exhibit W -9. He was paid wages every day from petty cash. After interview in 1989, his name was included in waiting list. He was doing every kind of work. Evidence of workman about his working is not shattered in his cross-examination.

10. Management produced select list for 1997 Exhibit M-6. Management witness Smt. Nirupa Joshi in her

affidavit of evidence has stated that working days of workman from 20-10-81 to 15-2-82 were 83 days. The details of the working days of workman are also shown in para-5 of her affidavit. In para-6. Management's witness has stated as per settlement with Union temporary employees working during 1-7-75 to 31-7-88 were considered for absorption. The period was extended till 14-8-91. Workman had not completed 240 days continuous service during any of the year from 12-8-91 to 31-5-97. Provisions of Section 25-F was not violated. However management's witness in her cross-examination says workman was paid wages from petty cash. Said register is not produced. The chart of working days of workman is not produced. Workman was called for interview on 12-8-79. Select list of said interview is not produced. It is denied that name of workman was included in select list. Management's witness denied select list before the date of record. workman was paid bonus. in 1997, workman was not called for interview as he was found unsuitable in 1989. Witness of management admitted that workman was continuously working from 1991 to 97. Select list is produced at Exhibit M-6. Name of workman is not included in Exhibit M-6 as he had not completed 240 days continuous service during any of the year 1975 to 1991. She claims ignorance about any persons engaged by Bank after termination of services of workman.

11. Though management's witness says that after interview in 1989, workman was not found suitable. The select list of 1989 is not produced. Copy of settlements are produced on record. settlement dated 17-11-87 is amended time to time. Copy of amendment settlement at page 15 provides that the aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at anyone or more offices. The evidence of workman that during 1981, 82, he worked for 83 days, is unshattered rather it is also admitted by IInd party. Workman is squarely covered by agreement dated 17-11-87 modified time to time. Workman was called for interview. List on basis of interview in 1989 is not produced. Workman is fulfilling condition of working days during relevant period as per Exhibit W-1 and advertisement Exhibit W-3. Evidence of management's witness is not clear how the workman was not found suitable for absorption. Evidence discussed above clearly shows that workman was continuously working from 91 to 98 for more than 240 days. I find no reason to disbelieve evidence of workman. In absence of documentary evidence, the contentions of workman cannot be accepted.

12. Learned counsel for IInd party Shri V.P.Khare relied on ratio held in

Case of State of Karnataka and others versus M.L.Kesari and others reported in 2010((SCC 247) . their

Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I.D. Act.

Next reliance is placed in ratio held in

Case of Allahabad Bank versus Shri Prem Singh reported in 11 (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wagger stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wagger had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

13. The evidence shows that workman instead of regularizing service as per settlement dated 17-11-87 extended time to time, workman was terminated without notice, compensation was not paid to him. The act of management therefore is clearly in violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No. 1 in Negative.

14. Point No.2- As per my finding in Point No1, termination of services of workman is illegal, workman is denied regularization as per settlement dated 17-11-87. Instead of regularizing, workman was dismissed from service without paying retrenchment compensation or issuing notice. Workman was working with IInd party during 1981-82, the details given Supra. Thereafter from 91 to 97. Considering denial of absorption as per settlement between management and Union, workman is terminated. Workman is entitled for regularisation of his services as per the settlement. The evidence adduced by workman and IInd party is not cogent about gainful employment of workman. Workman has not stated how he was surviving

after termination of his service since 1997. Considering those aspects, reinstatement of workman would be justified.

15. Shri Ram Nagwanshi Union representative submitted copies of award in R/180/00, 4/07, 105/02, 27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence. In my view, reinstatement of workman with 50 % back wages would be appropriate. Accordingly I record my finding in point No.2.

16. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Rajendra Mewati w.e.f. December 1995 instead of regularizing him is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service with 50 % back wages.

8. Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 75/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/30/2002-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 75/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/30/2002-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/75/02

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain ...Workman/Union

Versus

Asstt. General Manager,
State Bank of India,
Region-III, Zonal office,
Hamidia Road, Bhopal ...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 17-5-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/30/2002-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is justified? If not, what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/2 to 2/8. Case of workman is that he worked for 90 days in State Bank of Indore on vacant post of messenger in 1984. He sincerely worked without any grievance from any corner. Branch Manager called him in his cabin and proved that his name was included for absorption as permanent employee. He was called for interview in the year 85 to 89. He was included in the select list. He was told that he would be called for regular appointment. That agreements were settled between management and Union dated 17-11-87 to consider temporary employees working during 1-7-74 who worked for 30-70 days during said period. That in 1997, temporary employees were called for interview for permanent appointments. Applicant has submitted the documents. He was present on 19-2-97. However he was told that the instructions were received from Regional office Bhopal. That individuals who were interviewed in 1989 were not required to be interviewed.

3. Ist party workman further submits that he was working as messenger in the Bank from 24-4-97. He was working from 10 AM to 6 PM. He was performing his service with devotion. On 12-5-97, he submitted representations that the settlement donot provide for part time appointments. That he could not maintain his family as part time employee, he requested for appointment as permanent employee. It is submitted that he was directed to approach Regional Office, Bhopal. He was given understanding to approach appointment as regular employee to her office. The order for regular appointment was received. However when he approached branch office at Dhar, he was given understanding that the order for regular appointment was wrongly issued. He was appointed as part time messenger. He was not allowed to join duty as regular employee. Workman reiterates that he had worked for 90 days as per the bipartite settlement during 27-10-88 to 9-1-91. His name was included in select list. He had completed continuous service under Section 25 B of I.D.Act. Workman submits that despite he was selected after interview in 85 to 89, his services are illegally terminated. He is not given benefit for bipartite agreement. Instead of regularizing his. services, he was illegally termmated. On such ground, workman is praying for regularisation on post of messenger.

4. IInd party filed Written Statement at Page 7. Preliminary objection is raised for General Secretary Shri Nagwanshi is a dismissed employee of the Bank and he is not competent to represent workman. Bank has elaborate selection procedure for permanent appointment. It is necessary to call name from Employment Exchange. The Bipartite agreements dated 17-11-87, 16-7-88, 28-10-88, 9-1-91 provides opportunity to be given to the employees discontinued during 1-7-75 to 31-3-88. IInd party had given advertisement in newspaper calling applications in prescribed format of casual workers working during stipulated period. Workman was called for interview on 19-2-97. He was selected as part time employee in March 97. He was given appointment letter directing to report at Dhar branch. Workman remained absent from 1-5-97 to 5-5-97. He reported on duty on 6-5-97. Thereafter workman remained unauthorized absent, notice by RPAD was sent to him on 7-12-97 requesting to report on duty. However workman reported on duty on 23-7-97 after long period of one year. Workman himself abandoned job. Above contentions are reiterated by IInd party while replying to contentions "raised in statement of claim. It is emphasized that workman was appointed as part time employee after he was selected in the interview. He himself abandoned job. Workman was not selected as permanent employee. On such ground IInd party submits that workman was never given appointment as full time messenger workman is not entitled to relief claimed by them.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) "Whether the action of the management of Asstt General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Terms of reference are clear that workman is challenging denial of regular appointment evenafter his selection by interview. IInd party had denied workman was selected from post of permanent messenger. He remained unauthorisely absent and abandoned job. The documents produced by workman are admitted by IInd party marked as Exhibit W-1 to W-16. In Exhibit W-1 select list, name of workman is appearing. His educational qualification is shown 8th standard, working days-90, marks 30.1. said letter doesnot indicate that selection was for part time post. Exhibit W-2 is advertisement notice shows that the advertisement is given for absorption of part time employee to full time post. Exhibit W-3 is letter for interview issued in 1997. It clearly provide that candidates called for interview in 1989 were not required to be interviewed. Exhibit W-4 is letter given by Branch Manager about unauthorized absence of workman. He was called to join duty. W-5 is letter given by Branch Manager about his unauthorized absence. Exhibit W-6 is letter dated 2-9-97 given to workman about his absence on account of illness. Exhibit W-7 is receipt of payment of ₹ 240/- paid for 9 days working. W-8 is letter given by Branch Manager informing that he was under consideration for appointment as regular employee. Exhibit W-9 is reply given to ALC. It is stated by IInd party that proposal for part time appointment of workman was submitted. W-10 is notice given to parties by ALC. Exhibit W-11 to 15 are receipts of payment of retrenchment compensation to other employees. W-16 is letter given by AGM of Bank calling information about temporary daily wage employees completing 240 days service in branches.

7. Evidence is adduced by workman on affidavit covering his contentions in statement of claim that he worked for 90 days as per the settlement. He. was called for interiew in 27-7-89, his name was included in the list as he was interviewed in 1989, he was not interviewed in 1997. He further submits that he was not given

appointment as permanent employee despite of his selection after the interview. In his cross-examination, workman says when he joined Bank service in 1984, the post was not advertised. Appointment letter was not given to him at that time, After he was called on interview on 19-2-97, appointment letter was given to him. He was also interviewed in 1985. As per settlement between Union and management, he was interviewed. He had worked for 90 days. The appointment letter as required employee on full scale was issued but he was not allowed to join duty on ground that the order was wrongly issued. Even after approaching zonal office, he was not allowed to join duty as regular employee by the Branch manager. The evidence of workman is supported by documents. Exhibit W-1 to W-5 as well as W-7,8.

8. Management adduced evidence of witness Shri Sanjay Vijay Khole on affidavit supporting contentions in Written Statement. Witness of management says as per settlement of 87-88, 91, casual employees were called and select list was prepared. The period of settlement was extended till 14-8-91. When workman remained absent, he was served with notices by RPAD. Management's witness in his cross-examination says in 1984, he was not posted at MG Road branch. In 1985, 89 workman was not called for interview twice. He was called once for interview. He was unable to tell its date. The witness of management denied that workman was given appointment letter and the same was called back. Management's witness admits that as far as appointment letter given to workman, he had gone to join at branch. Said appointment letter is not produced. He admits that workman had submitted application for appointment as permanent employee. That contents of his application about resignation submitted by workman was in the context that workman remained absent on duty. That para-4 of his affidavit is silent about workman abandoning job, no enquiry was conducted against the workman.

9. Documentary evidence discussed above is clear that after his interview, name of workman was included in select list W -1. Said document doesnot show that he was selected for part time post. Notice W-2 also doesnot show that part time post was advertised. However document Exhibit W -8 shows that workman remained absent. As per evidence of management's witness chargesheet was not issued to workman, no enquiry is conducted against him. Letter of appointment given to workman is not produced on record. Thus management is suppressing immaterial evidence. The evidence of management's witness that workman had resigned from Job is not corroborated by documents. Evidence on said point cannot be accepted. The documents produced by management, copies of agreements Exhibit M-3, M-4 are clear that the employees completed minimum 30 days aggregate temporary service in any calendar year after 1-7-75 or

7-0 days service in any continuous block of 36 calendar months after 1-7-75 were eligible for absorption as permanent employee. Workman had worked for 90 days in 1984. Thus workman fulfills eligibility for absorption as regular employee. Evidence of management's witness is not cogent why workman was given appointment as part time employee of permanent employee. It appears that name of workman is not included in said list as he was not interviewed in 1997 and he was called for interview in 1989. Considering those spectrs it is apparent that despite of his selection for absorption as casual employee for regular appointment, workman was absorbing on regular post.

10. Learned counsel for IInd party Shri V. P. Khare relied on ratio held in :

Case of State of Karnataka and others versus M. L. Kesari and others reported in 2010 (SCC 247). their Lordship deals with appointment of qualified persons made against sanctioned post without following process of open competition are irregular appointments.

The ratio cannot be applied to present case as facts are not comparable and there is violation of Section 25-G, Rule 77 of I. D. Act.

Next reliance is placed in ratio held in :

Case of Allahabad Bank versus Shri Prem Singh reported in II (1996) BC 387 SC. Ratio held by their Lordship that qualified to be appointment as a cash clerk status of daily wager stood terminated at the end of each day, there is no obligation to employ.

The facts of present case are not comparable and ratio held in the case cannot be beneficially applied. The workman was admittedly working for 1684 days during 2-5-91 to termination of his service. IInd party has not produced details of working days of workman. The evidence of workman that he worked more than 240 days in each of the year cannot be discarded. Therefore the ratio cannot be applied beneficially. For same reasons ratio held in case of Nand Kumar versus State of Bihar and others reported in 2014(5) SCC 300 cannot be applied beneficially in the present case.

In case of Himanshu Kumar Vidyarthi and others versus State of Bihar and others reported in Judgment today 1997(4) SC 560. His Lordship held daily wager had no right to the posts and their disengagement is not arbitrary. If violation of Section 25-G, Rule 77 was not involved for consideration of their Lordship, therefore ratio cannot be applied beneficially.

11. Shri Ram Nagwanshi Union representative submitted copies of award in R/180/00, 4/07, 105/02, 27/04. The facts of present case are not comparable. Each case needs to be decided as per available evidence.

12. Evidence clearly shows that workman was found eligible for absorption on regular post as per the settlement but he was not given its benefit. The ratio held in above cases cannot be beneficially applied to present case. For above reasons, I record my finding in Point No.1 in Negative.

13. Point No.2- in view of my finding in Point No.1, the denial of regularization as permanent employee is illegal. Question arises whether he is entitled for reinstatement with back wages. Workman was selected after interview as per Bipartite Settlement. However he was denied regular appointment. Evidence of workman is not cogent on the point of what work he was doing after discontinuation from service. Evidence of workman is silent how he was maintaining his family for such long period. Evidence of management's witness is also silent on this point, therefore in my considered view, workman is entitled for regularization/reinstatement with 50 % back wages. Accordingly I record my finding in Point No.2.

14. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Region-III, Bhopal in not giving the regular appointment to Shri Madanlal Jakhad even after selection in the interview is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service with 50 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2985.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/220/2002-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2985.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 35/2003) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the State Bank of India and their workman, which was received by the Central Government on 18/11/2014.

[No. L-12012/220/2002-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/35/03

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Association,
9, Sanwer Road, Ujjain ...Workman/Union
Versus

Asstt. General Manager,
State Bank of India, Zonal Office,
Hamidia Road,
Bhopal (MP) ...Management

AWARD

Passed on this 28th day of October, 2014

1. As per letter dated 13-1-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/220/2002-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 5/1 to 5/5 through Secretary, Daily Wage Bank Employees Union, Ujjain. Case of workman is that he was engaged as peon/ messenger in May 1989 on daily wages @ ₹ 20/- per day. His wages were increased to ₹ 20, 30, 40 per day. He was working in GPO Branch, Indore. He was deputed to place of transfer of Manager. He was cooking meals for them. He was also watching their residential home. He was paid wages on petty cash. In May 93, he was directed to work in Indore branch. He worked under Branch Manager Shri Chatti. Srivastastava, Sadavarte. He was discontinued from 6-4-95. He was not paid retrenchment compensation. Notice was not served on him. It is submitted that he worked continuously more than 240 days. He was paid bonus for May 89 to 6-4-95. That he is covered as employee under Section 25 B of I.D. Act. Termination of his service is in violation of Section 25-F, H of I.D. Act. On such ground, workman is praying for his reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 8/9. Preliminary objection is raised that Ram Nagwanshi so called General Secretary of Union is a dismissed

employee of SBI is not competent to participate in the reference proceeding. Workman was temporarily engaged on daily wages as messenger at GPO branch Indore and Godha Colony branch, Indore. He worked for 80 days in 1991, 126 days in 1992, 11 days in 1993 at GPO branch and 5 days in October 1994, 14 days in November 94 and 19 days in December 94 at Godha colony branch. Workman was paid bonus ₹ 262/- on 11-12-01. It is reiterated that workman is not appointed by Bank. His engagement on the day come to end at end of day. His discontinuation is covered under Section 2(oo)(bb) of I.D. Act. As per settlement with union, casual employees working during 1-7-75 to 31-7-88 were called for interview for absorption. Workman did not submit application after advertisement. Therefore there is no question of his consideration for absorption. It is reiterated that workman had not completed 240 days continuous service. He is not entitled to retrenchment compensation, notice of pay, pay in lieu of notice. On such ground, IInd party prays for rejection of claim.

4. Workman submitted rejoinder at 11/1 to 11/3 reiterating his contentions in statement of claim. He submits that he completed 240 days continuous service. His services are terminated without paying retrenchment compensation.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. **Point No.1**—terms of reference relates only to legality of termination of service of workman from 6-4-95. It doesnot include denial of regularization of workman as per bipartite settlement. Workman has pleaded that he completed 240 days continuous service with IInd party. His services are terminated without notice, not paid retrenchment compensation. Workman filed affidavit of his evidence on 11-1-07. As per order sheet dated 2-6-2010, representative of workman submitted that workman is not produced for his cross-examination. Evidence of workman was closed that note that his evidence will not be looked into. Thus the contentions of workman are not

supported by evidence. The documents admitted by IInd party W-1 shows attendance of workman in the month of May 1992. W-2 shows attendance of workman in December 91, January 92, those documents donot show that workman was working with IInd party during 12 consecutive months prior to termination of workman in April 1995. Exhibit W-3 is representation submitted to ALC, Bhopal about illegal termination of workman for violating Section 25-F of I.D. Act. W-4 is letter given by workman to management for payment of bonus from May 89 to May 93. W-5 is letter reply given by IInd party to ALC, Bhopal. The working days of workman are shown 80 days in 1991, 126 days in 1992, 11 days in 1993. That workman had not completed 240 days. W -6 is reply submitted by IInd party before ALC showing payment of bonus ₹ 162/- for 91-92, ₹ 100 for 92- 93. The working days of workman are shown 122 days in 91-92, 84 days in 92-93, 11 days in 93-94. In Ex W-7 working days shown by management similar to earlier documents. W-8 is letter given by Union Representative before ALC stating that workman was terminated without notice, retrenchment compensation was not paid. W-9 is copy of failure report, W-10 is letter given by Asstt. General Manager calling information about casual employees working in branch. W -11 is also letter given by Asstt. General Manager calling information of daily wage employees completed 240 days till 30-9-02. All those documents donot establish that workman was continuously working for 240 days during preceding 12 months of his discontinuation on 6-4-95. Copies of bipartite settlement are produced on record. however as per terms of reference, donot include denial of regularization of workman in violation of Bipartite Settlement therefore detailed discussion of conditions in Bipartite Agreement is not necessary.

7. Management filed affidavit of evidence of Shri Mahesh Kumar Maheshwari. He has supported contentions of management that the workman was working for 80 days in 91, 126 days in 1992, 11 days in 1993. He was engaged on daily wages. Workman was working 5 days in October 94, 14 days in November 94 and 19 days in December 94 at Godha Colony branch, Indore. In his cross-examination, witness says during 91 to 93, he was not working in Godha branch. Presently he is working in said branch. He did not discuss with earlier Branch Managers about Ist party workman. He claims to have received information from Administrative office. No recruitment process was followed before engaging Ist party workman on daily wages. Permission of Controlling Authority was not obtained before engaging workman on work. Bipartite Settlement are applicable to IInd party. Attendance Register of workman was not maintained. Workman was paid through petty cash. Petty cash register was maintained. Workman was paid bonus in 2001. The documents discussed earlier shows payment

of bonus and working days of workman. The evidence in cross-examination of management's witness is not supporting claim of workman that he had worked for more than 240 days preceding his discontinuation on 6-4-95. Workman has not made available for his cross-examination and his evidence cannot be looked into. As such there is no evidence to support claim of workman that he was continuously working more than 240 days preceding his discontinuation. Therefore compliance of Section 25-F of I.D. Act is not necessary. The termination of workman in violation of Section 25-F of I.D. Act is not established. For above reasons, I record my finding in Point No.1 in Affirmative.

8. Pont No. 2- in view of my finding in Point No.1, termination of service of workman in violation of Section 25-F is not proved, workman is not entitled to any relief as claimed. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:-

- (1) The action of the management of Asstt. General Manager, State Bank of India, Bhopal in terminating the services of Shri Umesh Thakur w.e.f. 6-4-95 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2986.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 5/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-41012/159/2004-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 05/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the West Central Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41012/159/2004-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/5/06

PRESIDING OFFICER: SHRI R. B. PATLE

Shri Narmada Prasad,
S/o Shri Hari Ram,
R/o Ganeshganj Ward No.9,
Shahpur Police Chouki Sahapur,
Post Magroan,
Distt. Sagar (MP)

Workman

Versus

Divisional Railway Manager,
West Central Railway,
Jabalpur.

Management

AWARD

Passed on this 30th day of October, 2014

1. As per letter dated 5-1-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-41012/159/2004-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of Divisional Railway Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Narmada Prasad S/o Shri Hari Ram w.e.f. 15-3-88 is justified or not? If not, to what relief the applicant is entitled to and from which date?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/3. Case of workman is that he was engaged in Railway service from 18-10-78 under Loco Foreman, Sagar. He worked till 14-3-88 for 10 years. That he was continuously working for more than 240 days. He gained status of temporary employee. That his services were not regularized rather he was arbitrarily terminated without giving any opportunity. Any show-cause notice was not issued to him. Termination of his service is illegal. Workman further submits that the management given assurance in writing that in next recruitment, he will get his job in recruitment of old card holders in 2003. That IInd party employed 350 card holders back on duty. Workman was not recruited along with them. Workman raised dispute before ALC. Labour Ministry refused to make reference. He filed Writ Petition No. 11821/05 only after direction of Hon'ble High Court, the reference has- been made. Workman prays for reinstatement with consequential benefits.

3. IInd party management filed Written Statement. Objection is raised after 17 years is not tenable. IInd party referred to ratio held in various cases. That the dispute raised after 7 years is not tenable. IInd party further submits that Hon'ble High Court directed to decide issue as to whether workman had opportunity for re-employment while 358 Co-workers were re-employed in 2003. Claim of workman is restricted from 2003 as per orders passed by Hon'ble High Court. Workman was offered opportunity for re-employment with 350 ex-casuals. Workman claimed that he was engaged from 78 to 88. It is submitted that Railway has recruitment policy for appointment of regular employees. Procedure has to be followed for regular appointments. That in March 2003, IInd party invited applications of ex-casuals publishing in daily newspaper. Workman had not submitted application at that time. Workman first time claimed employment in 2005. It is submitted that workman had not completed 120 days, he has not produced record, he has not acquired status of temporary employee. The details of working days of workman are given Para-10. All other adverse contentions of workman have been denied. That workman was engaged as casual labour in broken period from May 1981 to June 1984. He has not completed 240 days service. On such ground, IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the action of the management of Divisional Rail Manager, West Central Railway, Jabalpur (MP) in terminating the services of Shri Narmada Prasad S/o Shri Hari Ram w.e.f. 15-3-88 is justified or not? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

5. The terms of reference relates to legality of termination of his service from 15-3-88. However workman in his statement of claim in Para-4 has pleaded that he was assured job in recruitment of card holders. The contention of workman on above point and his evidence on point is beyond the terms of reference. Though the Hon'ble High Court set aside order of Govt. refusing to make reference on ground of delay on 17 years observing that other casual card holders were appointed in 2003, claim of workman cannot be said belated. However the terms of reference donot relate to the claim of workman for appointment as casual card holders rather

terms of reference relates to the legality of his termination in 1988.

6. Workman in his affidavit of evidence has stated that he was in Railway Service, Loco Foreman Sagar as casual labour from 18-10-78, he was working till 14-3-88. He acquired status of monthly rated employees. He acquired status of 240 days service. Service certificate was issued to him. His casual card no. is 188095. Workman in his cross-examination says casual card was issued by Foreman in 1978 but attendance card is not produced. On 14-3-88, he was terminated. That he raised dispute in Labour Court but unable to tell its date. He claims ignorance whether any settlement was arrived for employing casual card holders. He was unable to tell whether the documents M-3 produced by management was correct or not. He denies that the management had published notice in 2003. That he had not submitted application in 2003.

7. Management's witness Shri Chandan Singh in his affidavit of evidence has stated that management had decided to offer opportunity to call casual labours for appointment against regular vacancies. Said decision was published in Dainik Bhaskar in March 2003 Exhibit M-1 inviting applications from casuals. The copy of list Annexure M-2 is produced. That workman did not tender any application at relevant time. He did not approach management claiming employment as casual labours. Workman did not complete 120 days service. The details of working days of workman are given in para-14 of his affidavit. Management's witness in his cross-examination says the casual service card used to be issued by Loco Foreman. When casual service card was issued, he was not working at Loco Sagar. He claims ignorance when working of Loco Sagar was closed, working of steam loco stopped long back. He never worked in steam loco. Workman was working as casual labour during 1981 to 1984. He has stated delay of 17 years on basis of documents. Workman has produced zerox copies of documents but no care is taken to prove same by valid evidence. The documents produced by management M-I shows workman had worked for 474 days during May 81 to June 84. The dispute is raised in the year 2006 whereas as per pleadings he was terminated in 1988. The dispute relating to legality of his termination raised after almost 17 years is belated. Management has produced Exhibit M-1 relating to regularization of 308 Railway Casual labours. The careful reading of said publication doesnot show that applications were invited for regularization of casual labours but said publication clearly shows that General Manager of Central Railway had decided to regularize 308 casual labors whose signatures were in the register. The names of such are given only for convenience of the casual labours regularized by said publication. Ist party workman was also working as casual labour. The evidence of management's witness is also clear

about his working. Certainly the workman as a casual labour would have been entitled for regularization. However the terms of reference are related to legality of his termination from service in 1988. The terms of reference do not include claim of workman for regularization as casual card holders therefore the relief claimed by workman for regularization being beyond terms of reference could not be upheld. The legality of termination of services raised after 17 years is highly belated and cannot be interfered. For above reasons, I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under.-

- (1) The termination of services of workman is not established.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2987.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 11/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/307/1999-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2000) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/307/1999-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/11/2000

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
9, Sanwer Road, Ujjain

...Workman/Union

Versus

Asstt. General Manager,
State Bank of India,
Region-V, Zonal office,
Hamidia Road, Bhopal

...Management

AWARD

Passed on this 17th day of October 2014

1. As per letter dated 23-24/12/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-12012/307/99/IR(B-I). The dispute under reference relates to:

"Whether Shri Madanlal Malviya was a workman under ID Act 1947 of State Bank of India, Ujjain branch. If so, whether the action of the, management of State Bank of India, Ujjain Branch in terminating his services w.e.f. 20-9-93 instead of regularizing is legal and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 6/1 to 6/5. Case of Ist party workman is that he was engaged by Branch Manager as peon on monthly salary ₹ 250/- from 10-5-90. On 20-3-91, Branch Manager SBI called him for interview. He was told that he cannot continue him for more than 240 days continuous service. That his name was sent to Regional Office. Whenever vacancy will be available, he will be called. That Branch Manager had engaged him as peon. He was paid ₹ 32/- per day. Till 20-9-93, he was engaged on daily wages, then his services were discontinued. As per settlement dated 27-10-88, 14-8-91, casual temporary employees working during 1-7-75 to 31-7-88 for 30, 70, 240, 270 days were eligible for appointment as regular employees. That as per those settlements, he had worked for 300 days during 10-5-90 to 14-8-91. That on 12-2-97, he was called for interview. At the time of interview he told that he completed 240 days continuous service. It is alleged that after interview of 1997, some malpractices were committed of giving amounts. Committee members were suspended. Workman says that he worked for 314 days during 10-5-90 to 20-3-91. He was not continued by IInd party. He raised dispute. IInd party had sought adjournments for filing reply. After failure report submitted to Govt reference is made. Workman submits that he completed 240 days continuous service as provided under Section 25 of I.D.Act. he is not regularized by IInd party as per settlement dated 27-10-88, workman further submits that IInd party has committed offence under Section 29 of the I.D.Act. IInd party also violated the Section 25-G, H, N of I.D.Act. other employees

Satyanarayan and 5 others were engaged by management, workman was not called for re-employment. IInd party violated Section 25-F of I.D.Act. on such grounds, workman prays for reinstatement/regularization.

3. IInd party filed Written statement at Page 8/1 to 8/12. IInd party raised objection that Union secretary Ram Nagwanshi is a dismissed employee of Bank and as such he cannot represent workman. IInd party in Para-2 admits that workman had worked for 240 days during 11-5-90 to 20-4-91. He had also worked for 36 days during 9-2-94 to 23-5-94 after he raised dispute before ALC. On failure report submitted to Govt, reference is made to this Tribunal. Workman reiterates that IInd party engaged workman on casual basis. The engagement of workman ended at end of day. The discontinuation is covered under Section 2(o)(bb) of I.D.Act. His discontinuation does not amount to retrenchment. It is further pleaded that Bank has elaborate selection procedure. The provisions of Bipartite settlement dated 17-11-87, 16-7-88, 27-10-88, 9-2-91, 30-7-96 provides eligibility criteria for selection procedure for permanent post in sub cadre. Workman was given chance as per bipartite agreements. Workman failed to appear on 20-9-91. However interview committee permitted him to appear for interview since application was submitted by workman. As per settlement, panel was required to be kept alive till March 97. Workman was engaged for only two hours a day as per casual basis. Workman was not engaged for whole day as pleaded by workman. All adverse contentions of workman are denied. It is not disputed that workman was paid wages at ₹ 250/- per month. Ist party workman was paid wages at ₹ 250/- per month. Ist party workman had not worked 240 days in any calendar year. The engagement of workman was purely on part time basis. It is denied that IInd party violated provisions of Section 25-G, H of I.D.Act. The allegations of workman are vague. Workman has not worked for statutory period of 240 days provided under Section 25 B of I.D.Act. on such contentions, IInd party prays for rejection of claim.

4. Workman has filed rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|----------------|
| (i) Whether Shri Madanlal Malviya was a workman under ID Act 1947 of State Bank of India, Ujjain branch | In Affirmative |
| (ii) whether the action of the management of State Bank of India, Ujjain Branch in | |

terminating his services w.e.f. 20-9-93 instead of regularizing is legal and justified?	In Affirmative
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- | | |
|---|--|
| (ii) If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |
|---|--|

REASONS

6. As per terms of reference, Ist issue deals with whether Ist party is covered as workman under I.D.Act? In para-2 of Written Statement, IInd party has contented that Ist party had worked 240 days during period 11-5-90 to 20-4-91. Workman was again engaged at Ujjain Branch of State Bank of India as daily rated casual employee. He had also worked for 26 days during 9-4-90 to 23-5-94.

7. Workman filed affidavit of his evidence stating that he was working at SBI branch Ujjain from 10-5-90. As per order sheet dated 2-6-2010, workman remained absent and it is ordered that his evidence will not be looked into. Though the evidence cannot be looked into, the pleadings in Written Statement is clear that workman is covered under Section 2(s) of I.D.Act. he was working in branch Ujjain. Therefore I record my finding in Point No.1 in Affirmative.

8. Point No.2- workman is claiming regularization/reinstatement alleging that though he was working with the Bank as per bipartite settlement, absorption of casual/temporary employees, he was not appointed/absorbed on permanent post. Workman filed affidavit of his evidence but he failed to appear for his cross-examination, his evidence cannot be considered. The documents produced by workman Exhibit W-1 shows workman was engaged on supplying drinking water, document Exhibit W-2 shows that workman was engaged to ₹ 250/- per month from 10-5-90 to 20-3-91. Exhibit W-3 is interview call given to workman, Exhibit W-4 is public notice given by Bank for regular appointments of casual employees working during 95 to 98. Exhibit W-5 is application submitted to ALC by Shri Ram Nagwanshi, W-6 is letter issued by ALC, W-7,8 are letter given by Secretary to ALC, W-9 is certificate issued by Branch Manager about workman engaged during the period 10-5-90 to 20-3-91. W-11 is copy of public notice advertising post, W-12 is copy of interview call. W-13 is letter given by Asstt. General Manager calling information about casual employees working more than 240 days. Copies of bipartite settlement amended from time to time are produced on record. Clause III at Page 10 provide The aggregate temporary service of 270, 240, 70 days or 30 days should have been put in by an employee at any one or more offices. Clause VI of the agreement regarding existing waiting list provides the waiting list prepared after completion of interviews of the temporary employees in subordinate cadre who have completed 90 days of service and above as on

31st October 1984 has not yet been exhausted, it will be valid upto 31-7-88. Copy of select list of 1997 is produced at Exhibit M-6.

9. Management filed affidavit of Shri Sajeew Nema. He has admitted 240 days working of workman during period 11-5-90 to 20-4-91. Management's witness says that after 23-5-94, workman was not engaged. He had worked for 36 days during 9-2-94 to 23-5-94. That after interview, select list of the candidates was prepared. The period of settlement was extended till 14-8-91. Selected candidates were appointed against availing vacancies time to time. In his cross-examination, management's witness says his affidavit of evidence is filed on basis of available record. He did not enquire with respective Branch Managers. The documents referred by him are not produced. Workman was initially engaged at ₹ 10/- per day. Appointment letter was not given to him. His attendance register was not maintained. The witness of management claimed that candidates working less than workman is selected were appointed. The evidence discussed above shows workman worked for 240 days during 11-5-90 to 20-4-91. Bipartite agreement dated 17-11-87 contemplates 240 days working during the period 1-7-75 to 27-10-88. Workman was not working during said period. The period of said agreement was extended till 14-8-91. As per pleadings in Written Statement para-2, workman was working for 240 days prior to cut off date 14-8-91. However workman had not submitted application for regular appointment. Though he was permitted by IInd party to participate in selection process, he was not considered in the select list. Considering above aspects of evidence on record, the management has not committed illegality not regularizing his services as per agreement. For above reasons, I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of State Bank of India, Ujjain Branch in terminating his services w.e.f. 20-9-93 instead of regularizing is legal.
- (2) Workman is not entitled to any relief as claimed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 2988.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदोर मर्ज्ड एज भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 27/1998) को प्रकाशित करती है जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-12012/133/1997-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 2988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 27/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of the State Bank of Indore Merged as State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/133/1997-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/27/98

PRESIDING OFFICER: SHRI R. B. PATLE

General Secretary,
All India State Bank of Indore
Employees Congress,
Hardev Niwas,
9 Sanwer Road, Ujjain ...Workman/Union

Versus

General Manager (Operations),
State Bank of Indore,
Merged as State Bank of India
Local Head Office,
Hoshangabad Road, Bhopal ...Management

AWARD

Passed on this 14th day of October 2014

1. As per letter dated 13/17-2-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/133/97-IR(B-I). The dispute under reference relates to:

"Whether the action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is Justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to parties. Statement of claim is submitted by General Secretary of Union on behalf of workman at page 3/1 to 3/4. Case of 1st party refers to Article 39, 41, 43 rights given to the citizen of India for employment, payment of minimum wages etc. Union further submit that 1st party

workman was engaged by Branch Manager for cleaning, dusting etc. work. From 4-10-91, workman was carrying various duties of peon-distribution of letters, taking registers to different tables, supplying drinking water. He was working between 8 to 10 AM and 10.30 to evening when Bank was closed. He was continuously working till termination of his services on 15-8-97. That he completed 240 days continuous service. He was working 6 days in a week. He was not paid wages for holidays. Despite he completed 240 days continuous service as provided under Section 25 (B) of I.D. Act. His services were not regularized. His services were terminated without notice in violation of Section 25-F of I.D. Act, Para 507, 554 of Sastry Award. That after termination of his service, other persons are engaged. Principles of last come first go was not followed. He was not provided re-employment. As such IInd party violated provisions of Section 25 G, H of I.D. Act. on such ground, workman prays for regularization in service. Statement of claim is signed by Ramnagwanshi, General Secretary claiming to the General Secretary of Union.

3. Management filed Written Statement at Page 7/1 to 7/7 denying claim of 1st party Union. Preliminary objection is raised by IInd party without authority. That workman Saroj Kumar was not member of Union. Claim is not tenable. The daily wages Bank Employees Union has no territorial jurisdiction to represent claim of workman. That Director of Bank is not necessary party. Claim is bad for misjoinder of parties. IInd party further submitted objection that statement of claim is not filed in prescribed proforma. Claim is not tenable. It is denied that Union is registered and General Secretary is authorized to prosecute claim of workman. It is denied that workman was carrying various duties claimed in statement of claim. It is denied that workman was working for more than 8 hours per day and he was not paid wages for the same. It is denied that workman had completed 240 days continuous service in any of the year. Violation of Section 25-F, Para 507, 534 of Sastry Award is denied by IInd party. IInd party has not terminated services of workman. Retrenchment is challenged in his statement of claim. Workman is not entitled to any relief. Violation of Section 25-G, H of I.D. Act is denied. It is denied that workman has crossed the age for service and his family member are affected.

4. IInd party submits in its special pleading that workman was engaged for some time temporarily for supplying drinking water. He was paid wages for said work. Workman was not appointed following selection process. Workman was not appointed by the Bank as per rules. He is not entitled to regularization. Ist party Union submitted rejoinder at page 8/1 to 8/5 reiterating its contentions in statement of claim. In para-5 of rejoinder, Ist party Union has pleaded that IInd party had committed acts of issuing false certificate, tampering the evidence, work against law

punishable under various sections of IPC. Ist party further submits that workman was paid wages in name of Shri Kanhaiyalal from February 92 to April 92, Shri Ranchod from April 92 to July 92, Shri Radhesham from July 92 to January 93, Pradeep Jaiswal from February 93 onwards. All other contentions in Written Statement filed by management are denied.

5. IInd party also filed reply to the rejoinder at page 10/1 to 10/2. It is submitted that Bank doesnot pay wages in name of other persons. Bogus vouchers are not prepared by the Bank. The contentions of Ist party in the rejoinder are false.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is iustified? In Affirmative
- (ii) If not, what relief the Workman is not entitled workman is entitled to?" to any relief claimed.

REASONS

7. The terms of reference are clear whether not regularizing Shri Saroj Kumar S/o Kanhaiyalal is justified. However the pleadings in statement of claim by Ist party relates to termination of services of Ist party workman was discontinued from 15-8-97 in violation of Section 25-F, 25-G, H of I.D. Act. The same are beyond the terms of reference. All material contentions of Ist party have been denied by IInd party management.

8. Workman filed affidavit of his evidence at page 19/1 to 19/2. That he was engaged by Branch Manager from 4-10-91 for working of cleaning, sweeping, dusting etc. he was paid wages ₹ 25/- per day. He was also paid wages in name of Shri Kanhaiyalal from February 92 to April 92, Shri Ranchod from April 92 to July 92, Shri Radhesham from July 92 to January 93, Pradeep Jaiswal from February 93 onwards. Workman could not be cross-examined by IInd party. Right to cross-examine workman was closed on 25-9-08. The evidence of workman remained unchallenged. Management submitted affidavit of evidence of witness Shri Harinath Srivas. Witness of management was not present for his cross-examination. Affidavit of witness Shri Bhupendra Jain was submitted by management. Witness of management has stated that workman was engaged as per exigencies for cleaning, dusting etc work for one hour morning, one hour evening. Workman was paid wages for it. Other contentions of

workman about continuously working from 4-1-91 to 15-8-97 are denied. It is denied that workman was continuously working during above said period. In his cross-examination, management's witness says any selection process was not followed before engaging workman. He claims ignorance whether permission from Controlling Authority was obtained for engaging workman. Appointment letter was given to him. Witness of the management had admitted documents Exhibit W-1 to W-6.

9. Exhibit W-1 does not give working days of workman. Documents W-2 to W-4 show payment of wages ₹ 125/-, 75/-, 400/- and 750/-. In 1992, payment of ₹ 75/- is shown in name of Shri Radhesham Parihar, payment of ₹ 400/- is shown in name of Shri Anil Jaiswal, payment of ₹ 750/- is shown for cleaning charges in August 1996. Exhibit W-5 is application submitted to General Manager, State Bank of Indore. Workman was paid ₹ 501/- per month for work of supplying drinking water. ₹ 25/- per day for cleaning work. Working days are not shown in Exhibit W-5, W-6. The evidence in cross-examination of management's witness discussed above is clear that workman was not appointed following recruitment rules. Ist party has submitted copy of settlement dated 13-7-93 which provides one time opportunity for appointment as peon/farash to the employees who have worked more than 240 days in 12 consecutive months. The pleadings and evidence of workman on above point is silent. Clause 2 of said circular

provides for interview of eligible candidates, the pleadings and evidence of workman's silent whether workman had applied for absorption or he was called for interview and selected. In absence of such evidence, workman cannot be given benefit of regularization. He was not appointed following selection process. Representative of workman Ram Nagwanshi in support of his argument produced copies of award passed in 180/00, 4/07, 105/03, 27/04. The facts of present case are not comparable with the facts of those references. Each case needs to be decided as per evidence on record, the award passed by this Tribunal in other cases cannot be treated as binding precedent. Considering evidence on record, workman was not appointed following selection process. He has not complied requirements of circular dated 13-7-93. Workman cannot be given benefit of regularization. Claim of workman for reinstatement with back wages on ground of termination of his service in violation of Section 25-F, G, H of I.D. Act is beyond the terms of reference therefore workman cannot be allowed in service. For above reasons, I record my finding in Point No.1 in Negative.

10. In the result, award is passed as under:-

- (1) The action of the management of State Bank of Indore in not regularizing Shri Saroj Kumar S/o Shri Kanhaiyalal is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer